

**To:** "Pietranton, Kelsey (PAO)" <(b) (6)>  
**Cc:** "Miller, Marshall (ODAG)" <(b) (6)>, "Bruck, Andrew (ODAG)" <(b) (6)>, "Atkinson, Lawrence (ODAG)" <(b) (6)>

**Subject:** RE: Fox News: Jordan demands answers from Wray after leaked FBI memo suggests agency may be targeting Catholics

**Date:** Thu, 16 Feb 2023 17:03:09 -0000

**Importance:** Normal

**Inline-Images:** image001.gif

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This is from AG prep. It is still being workshopped.

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**From:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Sent:** Thursday, February 16, 2023 11:53 AM  
**To:** Evers, Austin (ODAG) <(b) (6)>  
**Cc:** Miller, Marshall (ODAG) <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>; Atkinson, Lawrence (ODAG) <(b) (6)>  
**Subject:** Re: Fox News: Jordan demands answers from Wray after leaked FBI memo suggests agency may be targeting Catholics

Duplicative Information - See Document ID 23-cv-1166 - 974

**From:** "Suero, Maya A. (ODAG)" <(b) (6)>

**To:** "Brinkley, Winnie (ODAG)" <(b) (6)>, "Simms, Donna Y. (ODAG)" <(b) (6)>

**Cc:** "Gamble, Nathaniel (ODAG)" <(b) (6)>

**Subject:** FW: OLA Correspondence 02/10/23

**Date:** Mon, 13 Feb 2023 14:00:28 +0000

**Importance:** Normal

**Attachments:** 2023-03-10-IN-\_-VA\_AG\_Jason\_S.\_Miyares\_et\_al\_-\_anti-Catholic\_internal\_memorandum\_produced\_by\_the\_FBI's\_Richmond\_Field\_Office.pdf

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**From:** Evers, Austin (ODAG) <(b) (6)>

**Sent:** Saturday, February 11, 2023 9:45 AM

**To:** Suero, Maya A. (ODAG) <(b) (6)>

**Cc:** Miller, Marshall (ODAG) <(b) (6)>; Gaston, Molly (ODAG) <(b) (6)>; Benson, Adrienne (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>

**Subject:** FW: OLA Correspondence 02/10/23

For the DAG's awareness.

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**From:** (b) (6) (OLA) <(b) (6)>

**Sent:** Friday, February 10, 2023 9:15 PM

**Subject:** OLA Correspondence 02/10/23

Good evening,

Please find today's incoming congressional correspondence attached and summarized below.

1. **Letter from Virginia AG Jason Miyares and 19 other state Attorneys General to AG Garland and Director Wray**  
– Expressing concern about an internal memorandum by the FBI Richmond Field Office regarding supposed violent extremism within radical-traditionalist Catholic ideology that was publicized this week; and requesting that the Department and the FBI provide the unredacted memorandum, documents related to its drafting and implementation, a briefing, and information about the FBI's activities in houses of worship to the signatory state Attorneys General.

No priority outgoing correspondence sent today.

(b) (6)

Confidential Assistant  
Office of Legislative Affairs  
U.S. Department of Justice

(b) (6)



**COMMONWEALTH of VIRGINIA**  
**Office of the Attorney General**

Jason S. Miyares  
Attorney General

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February 10, 2023

The Honorable Merrick B. Garland  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Christopher Wray  
Director  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, NW  
Washington, D.C. 20535

**Via Email and U.S. Mail**

Re: Federal Bureau of Investigation Infiltrating Catholic Congregations

Dear Attorney General Garland and Director Wray:

We are the chief legal officers of our respective States charged not only with enforcing the law, but also with securing the civil rights of our citizens. We write with outrage and alarm to address the anti-Catholic internal memorandum produced by the FBI's Richmond Field Office on January 23, 2023, which was released to the public this week.<sup>1</sup> The FBI must immediately and unequivocally order agency personnel not to target Americans based on their religious beliefs and practices. We also demand that the FBI produce publicly all materials relating to the memorandum and its production.

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in . . . religion."<sup>2</sup> This country was founded on the right of all people to worship in the church, mosque, or synagogue of their choice, free from government

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<sup>1</sup> FBI, *Interest of Racially or Ethnically Motivated Violent Extremists in Radical-Traditionalist Catholic Ideology Almost Certainly Presents New Mitigation Opportunities*, reprinted in Kyle Seraphin, *The FBI Doubles Down on Christians and White Supremacy in 2023*, UncoverDC (Feb. 8, 2023), <https://tinyurl.com/3fdb69ha>.

<sup>2</sup> *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

interference. Countless millions were drawn to our country because of that very right. Indeed, some of our first States were founded as safe havens for religious dissenters. There is no right more sacred to American democracy than the right to worship freely.

We are horrified to learn that at least one field office of the FBI apparently does not agree with this proposition. Anti-Catholic bigotry appears to be festering in the FBI, and the Bureau is treating Catholics as potential terrorists because of their beliefs.

On Wednesday, the public learned of an internal memorandum produced by the FBI's Richmond Field Office.<sup>3</sup> The memorandum identifies "radical-traditionalist Catholic[s]" as potential "racially or ethnically motivated violent extremists."<sup>4</sup> The memorandum deploys alarmingly detailed theological distinctions to distinguish between the Catholics whom the FBI deems acceptable, and those it does not. Among those beliefs which distinguish the bad Catholics from the good ones are a preference for "the Traditional Latin Mass and pre-Vatican II teachings," and adherence to traditional Catholic teachings on sex and marriage (which the memorandum glibly describes as "anti-LGBTQ").<sup>5</sup> The memorandum even appears to accuse the Supreme Court and the Governor of Virginia of "[c]atalyzing" the bad Catholics through "legislation or judicial decisions in areas such as abortion rights, immigration, affirmative action, and LGBTQ protections," singling out the Supreme Court's recent decision in *Dobbs v. Jackson Women's Health Organization*<sup>6</sup> and Governor Youngkin's support for sensible abortion regulations as examples.<sup>7</sup>

After defining which Catholics are the dangerous ones, the memorandum proposes dealing with those Catholics through "the development of sources with access," including in "places of worship."<sup>8</sup> In other words, the memorandum proposes recruiting Catholics to enter a sacred house of worship, talk to their fellow Catholics, and report those conversations back to the FBI so that the federal government can keep tabs on the bad Catholics. To allocate these "sources," the document includes an appendix with a list of Catholic "hate groups" that was assembled by the Southern Poverty Law Center (SPLC),<sup>9</sup> apparently without any independent vetting from the FBI.<sup>10</sup>

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<sup>3</sup> *Interest of Racially or Ethnically Motivated Violent Extremists*, *supra* note 1.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> 142 S. Ct. 2228 (2022).

<sup>7</sup> See, e.g., Myah Ward, *Youngkin will pursue 15-week abortion ban in Virginia*, Politico (June 24, 2022), [tinyurl.com/yckykeus](https://tinyurl.com/yckykeus).

<sup>8</sup> *Interest of Racially or Ethnically Motivated Violent Extremists*, *supra* note 1.

<sup>9</sup> The memorandum's reliance on the SPLC is particularly disappointing, given that the SPLC has been utterly discredited as a reliable source. Its founder is said to have "viewed civil-rights work mainly as a marketing tool for bilking gullible Northern liberals," and former staffers have confessed that the SPLC has been "ripping off its donors" by failing to "live[] up to the values it espoused." Bob Moser, *The Reckoning of Morris Dees and the Southern Poverty Law Center*, New Yorker (Mar. 21, 2019), <https://tinyurl.com/ht6nkfn2>. It should come as no surprise, then, that even the mainstream media has begun to call into question the SPLC's mission and methods. See, e.g., David Montgomery, *Is the Southern Poverty Law Center Judging Hate Fairly?*, The Washington Post (Nov. 8, 2018), <https://tinyurl.com/mwcj6vuz>; Ben Schreckinger, *Has a Civil Rights Stalwart Lost Its Way?*, Politico (June 28, 2017), <https://tinyurl.com/y7zfmxsu>. Indeed, the FBI at one time recognized this reality, having reportedly dropped the SPLC as a hate-crimes resource in 2014. Valerie Richardson, *FBI, Southern Poverty Law Center partnership alarms conservatives*, AP News (July 30, 2018), <https://tinyurl.com/yckkpt77>.

<sup>10</sup> *Interest of Racially or Ethnically Motivated Violent Extremists*, *supra* note 1.



After the American public learned of the memorandum, the Bureau apparently emailed a smattering of reporters to inform them that “FBI Headquarters quickly began taking action to remove the document from FBI systems and conduct a review of the basis for the document.”<sup>11</sup> The Bureau’s “action” occurred only in response to public outrage over the memorandum, which the FBI never intended the public to see at all. Had the memorandum not been revealed to the public, it might well still be an intelligence product available to the Bureau.

Suffice to say we are not persuaded by the FBI’s damage-control efforts. The FBI’s scrubbing of the document from its systems and the purported “review” of the process that created it in no way reassures us that this memorandum does not reflect a broader program of secretive surveillance of American Catholics or other religious adherents, and infiltration of their houses of worship. It assures us only that the FBI is embarrassed at the public revelation of the memorandum’s contents.

The memorandum’s targeting of Catholics because they prefer to pray in the ancient liturgical language of the Church, and the tactics it proposes for dealing with those Catholics, harkens back to some of the worst chapters of our past. This country has a sordid history of discrimination against Catholics. An entire political party, the Know Nothings, “formed in the 1850s to decrease the political influence of immigrants and Catholics”—groups that were often interchangeable given the rise of German and Irish immigration in the mid-19th century—and gained “hundreds of seats in Federal and State Government.”<sup>12</sup> A few decades later, in the 1870s, our Constitution was nearly amended to prohibit States from aiding “sectarian” schools.<sup>13</sup> It was an “open secret” that “‘sectarian’ was code for ‘Catholic.’”<sup>14</sup> This amendment was “born of bigotry” and “arose at a time of pervasive hostility to the Catholic Church and to Catholics in general.”<sup>15</sup> When the federal amendment failed, dozens of States adopted these amendments in their own constitutions.<sup>16</sup> And this discrimination did not end in the nineteenth century. Just a few decades ago the Ku Klux Klan—more infamous for its vicious campaign of wanton violence against Black Americans in the South—also targeted religious minorities such as Jews and Catholics.<sup>17</sup>

The targeting of Catholics for treatment as “violent extremists” because of the language in which they pray or because of the beliefs to which they subscribe is unacceptable, unconstitutional, and deeply un-American. It is particularly concerning that this memorandum originated in Virginia. Virginia is the birthplace of religious freedom in America and has a proud history of protecting the right to worship free from government interference or intimidation. Shortly after Independence, Virginia enacted Thomas Jefferson’s “Bill for establishing religious freedom” which decreed that “no man shall be . . . restrained, molested or burdened . . . or shall otherwise

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<sup>11</sup> Brittany Bernstein, *FBI Retracts Memo on “Radical Traditionalist Catholic Ideology,” Says It Failed to Meet Bureau Standards*, National Review (Feb. 9, 2023), [tinyurl.com/2kz3jxkd](https://tinyurl.com/2kz3jxkd).

<sup>12</sup> *Espinoza v. Montana Dep’t of Rev.*, 140 S. Ct. 2246, 2269 (2020) (Alito, J., concurring).

<sup>13</sup> See *Espinoza*, 140 S. Ct. at 2259.

<sup>14</sup> *Ibid.* (cleaned up).

<sup>15</sup> *Ibid.* (cleaned up).

<sup>16</sup> *Id.* at 2268–69 (Alito, J., concurring).

<sup>17</sup> Josh Zeitz, *When America Hated Catholics*, Politico (Sept. 23, 2015), <https://tinyurl.com/7xuwpwy>.

suffer, on account of his religious opinions or belief.”<sup>18</sup> When the former colonies came together to draft the Bill of Rights, they included first and foremost that the new federal government could “make no law” which “prohibit[ed] [the] free exercise” of religion.<sup>19</sup> That foundational protection of those beliefs nearest and dearest to persons of faith extends to all sincere beliefs, whether or not those beliefs may be considered “acceptable.”<sup>20</sup>

The un-American and unconstitutional memorandum alarms us for three additional reasons. First, it is part of a dangerous tendency in the FBI and DOJ to label those who hold views contrary to the Administration as violent extremists or terrorists. In October 2021, Attorney General Garland directed the FBI to “address[] threats” to school boards and administrators posed by parents and guardians protesting school board meetings, labeling those protests as “run[ning] counter to our nation’s core values.”<sup>21</sup> The weaponization of the DOJ and FBI to suppress political and religious views inconsistent with the Administration’s orthodoxy is an alarming trend that must be immediately curtailed.

Second, spying on Catholics in their churches and cathedrals is an absurd use of federal law-enforcement and counterintelligence resources. Every day, lethal amounts of fentanyl cross the southwestern land border unimpeded.<sup>22</sup> The Russian government successfully hacked software used by federal agencies and conducted an unprecedented espionage operation against the United States.<sup>23</sup> And a Chinese spy balloon recently crossed the entire continental expanse of the United States unmolested.<sup>24</sup> The Administration should focus its resources on addressing these real and ongoing threats to Americans, rather than labeling traditional Catholics as violent extremists and recruiting “sources” to spy on them.

Finally, we are particularly alarmed by the memorandum’s suggestion that FBI operatives should be developing “sources with access,” including in “places of worship,” to identify the bad Catholics. The FBI has been down this road before, having infiltrated countless mosques throughout the country in the wake of the September 11, 2001 terrorist attacks.<sup>25</sup> The FBI

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<sup>18</sup> *Report of the Committee of Revisors Appointed by the General Assembly of Virginia in 1777* 58 (1784).

<sup>19</sup> U.S. Const. amend. 1.

<sup>20</sup> *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1993).

<sup>21</sup> Letter from the Attorney General to the Director of the FBI, *et al.* (Oct. 4, 2021), available at [tinyurl.com/57y267kh](https://tinyurl.com/57y267kh); Ariana Figueroa, *U.S. Attorney General Defends FBI Probe of Threats Against School Board Members*, *Virginia Mercury* (Oct. 28, 2021), <https://tinyurl.com/bdzf5wjw>.

<sup>22</sup> U.S. Attorney’s Office for the S.D. Cal., *Fentanyl Seizures at Border Continue to Spike, Making San Diego a National Epicenter for Fentanyl Trafficking; U.S. Attorney’s Office Prioritizes Prosecutions and Prevention Programs* (Aug. 11, 2022), <https://tinyurl.com/2p9x3p63>.

<sup>23</sup> Government Accountability Office, *SolarWinds Cyberattack Demands Significant Federal and Private-Sector Response* (Apr. 22, 2021), <https://tinyurl.com/2s4xec8c>; Cybersecurity & Infrastructure Security Agency, *Emergency Directive 21-01 – Mitigate Solarwinds Orion Code Compromise* (Dec. 13, 2020), <https://tinyurl.com/27vfnpjd>.

<sup>24</sup> Katie Bo Lillis, *et al.*, *Initial Classified Balloon Report Wasn’t Flagged as Urgent, Drawing Criticism*, *CNN* (Feb. 8, 2023), <https://tinyurl.com/dnsme2rm>.

<sup>25</sup> See, e.g., Sabrina Alimahomed-Wilson, *When the FBI Knocks: Racialized State Surveillance of Muslims*, 45 *Critical Sociology* 871 (2019), available at <https://tinyurl.com/2p84jvkc>.

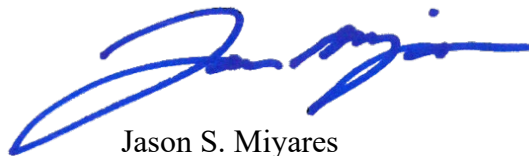
disavowed this ignominious practice in 2008,<sup>26</sup> and revised its internal guidelines in 2010<sup>27</sup> and 2013<sup>28</sup> to prevent its operatives from callously disregarding the religious liberty of American citizens. It would be very concerning indeed if the FBI had revived this practice against American Catholics or, worse, if it had never shut down the program in the first place.

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DOJ and the FBI must desist from investigating and surveilling Americans who have done nothing more than exercise their natural and constitutional right to practice their religion in a manner of their choosing. And they should reveal to the American public the extent to which they have engaged in such activities. We will take all lawful and appropriate means to protect the rights of our constituents as guaranteed by our Constitution.

To that end, we request that you respond to this letter by: (1) producing the full, unredacted January 23, 2023 FBI report to the undersigned Attorneys General; (2) producing any and all documentation used in drafting the report; (3) producing any and all documents implementing the report's recommendations or interpreting the report's conclusions; (4) providing a representative to present to the undersigned Attorneys General or their delegates a full and complete briefing of the process by which the report was drafted, an explanation of its conclusions, and the effect that is likely to be experienced by the Catholic populations of the undersigned's States, and what efforts, if any, have been taken to ensure that the memorandum's recommendations have not been, and will not be, implemented; and (5) providing information on whether the FBI has been adhering to its guidelines restricting the use of operatives to infiltrate houses of worship and if not, providing an explanation as to the extent of those activities and their constitutionality.

Sincerely,



Jason S. Miyares  
Attorney General of Virginia

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<sup>26</sup> FBI Response to Allegations of Mosque Surveillance and Monitoring of the Muslim Community (May 30, 2008), <https://tinyurl.com/4pcftj6b> (“The FBI does not monitor the lawful activities of individuals in the United States, nor does the FBI have a surveillance program to monitor the constitutionally protected activities of houses of worship. We do not target or monitor legal activity of Muslim groups anywhere in the nation.”).

<sup>27</sup> FBI, Corporate Policy Directive (Dec. 23, 2010), *available at* <https://tinyurl.com/33p5mvh6> (outreach personnel “must operate with honesty and transparency” for the sake of “developing trust and confidence”).

<sup>28</sup> FBI, Community Outreach in Field Offices Corporate Policy Directive and Policy Implementation Guide (Mar. 4, 2013), *available at* <https://tinyurl.com/4b82en48> (requiring officers to maintain “appropriate separation of operational and outreach efforts”).



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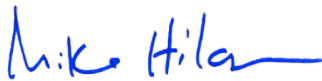
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CC: The Honorable Jim Jordan  
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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICANS FOR IMMIGRANT JUSTICE,  
*et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,  
Defendants.

Civil Action No. 22-3118 (CKK)

MEMORANDUM OPINION  
(February 1, 2023)

Several legal services organizations have moved for preliminary injunctive relief in the form of an order mandating that four civil-detention facilities (collectively, “Facilities”) institute a swath of policies and mechanisms related to communications between the organizations and detainees housed at those facilities. Asserting third-party standing, Plaintiffs mainly argue that current conditions violate detainees’ Fifth Amendment substantive rights to full and fair legal proceedings and to be free from punitive detention. Two of these organizations argue that current conditions violate certain detainees’ rights under the Rehabilitation Act, 29 U.S.C. §§ 701 *et seq.* Finally, Plaintiffs bring an *Accardi* claim under the Administrative Procedure Act, 5 U.S.C. §§ 555 *et seq.*, arguing that Defendants’ purported failure to implement certain governing attorney-access measures at each of the four facilities is (1) a final agency action not in accordance with the law and/or (2) a final agency action unlawfully withheld. Again asserting third-party standing, two of these organizations argue that current conditions violate certain detainees’ rights under the Rehabilitation Act, 29 U.S.C. §§ 701 *et seq.* Defendants maintain that Plaintiffs have not shown a likelihood of success on any of these claims, irreparable harm, or that the public interest weighs

in favor of preliminary relief.

In brief, the Court concludes that one of these organizations has shown a clear likelihood of success on the merits of its substantive due process claim, but that no other organization has made such a showing as to any other claim. The Court therefore crafts a narrow injunctive relief in favor of one Plaintiff only and as to one facility only. Accordingly, and upon consideration of the briefing,<sup>1</sup> the relevant authorities, and the entire record, the Court **GRANTS IN PART AND DENIES IN PART** Plaintiffs' [55] Motion for Preliminary Injunction.

## I. BACKGROUND

Over the course of almost one thousand pages of briefing, five distinct legal services organizations seek wide-ranging equitable relief at four separate immigration detention facilities in four different states collectively housing thousands of immigrants to this country. In the broadest possible terms, they seek an entire overhaul of all communications policies, technology, and access at each facility, nominally on behalf of clients they never identify and, in part, to ameliorate legal proceedings they barely describe. Although each facility is ultimately answerable to Defendants—the Department of Homeland Security (“DHS”), the Secretary of Homeland

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<sup>1</sup> The Court's consideration has focused on the following:

- Plaintiffs' Amended Complaint, ECF No. 53 (“Am. Compl.”);
- Plaintiffs' Motion for Preliminary Injunction, ECF No. 55 (“Motion” or “Mot.”);
- Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction, ECF No. 66 (“Opp.”);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, ECF No. 69 (“Repl.”); and
- Defendants' Sur-Reply to Plaintiffs' Motion for Preliminary Injunction, ECF No. 76 (“Surreply”).

Although the Court has reviewed Plaintiffs' appended exhibits in support of the Motion, ECF Nos. 56-57, the Court relies predominantly on the parties' respective declarations appending to their pleadings.

In an exercise of its discretion, the Court finds that holding oral argument would not be of assistance in rendering a decision. *See* LCvR 7(f).

Security, Immigration and Customs Enforcement (“ICE”), and the Acting Director of ICE—they are nevertheless separate entities, two of which are run relatively autonomously by private companies. None of these facilities or any individual remotely tied to them is named as a defendant. With the mammoth task ahead of it, the Court will endeavor to set out only those facts necessary to resolve the pending motion for preliminary relief.

The Court first begins with Plaintiffs: Americans for Immigrant Justice (“AIJ”), Florence Immigrant and Refugee Rights Project (“FIRRP”), Immigration Justice Campaign (“ICJ”), Immigration Services and Legal Advocacy (“ISLA”), and Refugee and Immigrant Center for Education and Legal Services (“RAICES”).

#### **A. AIJ**

AIJ is a non-profit law firm “that protects and promotes the basic rights of immigrants through direct representation, impact litigation, advocacy, and outreach.” Declaration of Andrea Jacoski, ECF No. 55-3 ¶ 3 (“Jacoski Decl.”). Relevant here, AIJ runs a “Detention Program” which “advises and represents” “at any given time” between “fifteen to twenty clients” in civil immigration detention at the Krome North Service Processing Center in Miami, Florida (“Krome”). *See id.* ¶ 4-5. Among the legal services provided, AIJ represents clients before the Executive Office for Immigration Review (“EOIR”) Immigration Court, in bond hearings and parole applications, and “files lawsuits to remedy inhumane conditions.” *Id.* ¶ 5. Though less relevant here, AIJ also engages in various advocacy and public policy activities in favor of detained immigrants throughout the United States. *Id.* AIJ does not state how many clients they currently represent or otherwise describe the proceedings in which AIJ ostensibly presently represents those clients. AIJ does, however, state that they represent four clients with mental health disorders, one of whom is also blind. *Id.* ¶¶ 45, 55.



Before turning to AIJ's specific allegations involving restrictions at Krome, the Court must note that this is not the first time AIJ has sued to better conditions of confinement at Krome on behalf of current or future clients. With others, AIJ filed one such action in 2020 in the United States District Court for the Southern District of Florida to challenge COVID-19-related conditions at Krome. *Gayle v. Meade*, Civ. A. No. 20-cv-21553 (MGC). Notably, it was AIJ's actual clients who were the plaintiffs in action in both cases, and AIJ (with other plaintiffs) appended substantial declarations from those clients. *See* Notice, ECF No. 64, Civ. A. No. 20-cv-21553 (MGC) (Apr. 22, 2020). That record, which Magistrate Judge Jonathan Goodman initially found insufficient for the entirety of preliminary relief requested,<sup>2</sup> stands in marked contrast to the dearth of declarations from individual clients here.

Without such supporting declarations, AIJ nevertheless contends that Krome is noncompliant with ICE's 2011 Performance-Based National Detention Standards ("PBNDS") as amended in 2016.<sup>3</sup> *See* Mot. at 9-11. The PBNDS "establish consistent conditions of confinement, program operations[,] and management expectations" at DHS-run immigration detention facilities. ICE, "Summary of Revisions to the ICE Performance-Based National Detention Standards (Feb. 18, 2022) *available at* <https://www.ice.gov/detain/detention-management/2011> (last accessed January 25, 2023 12:15 PM ET). Of these standards, at issue in this suit are sections 5.1, governing "correspondence and other mail," 5.6, governing "telephone access" and 5.7, governing "visitation."

Taking visitation first, AIJ alleges that Krome's attorney visitation rooms are not

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<sup>2</sup> *See* Report and Recommendations on Emergency Motion for Injunctive Relief, ECF No. 63 at 66-67, *Gayle v. Meade*, Civ. A. No. 20-21553 (MGC) (Apr. 20, 2022) (slip op.).

<sup>3</sup> Again, and unlike in *Meade*, no entity or person directly tied to Krome is named as a defendant.

“[p]rivate” in violation of section 5.6(J)(9), and that Krome does not reliably allow AIJ interpreters to accompany AIJ attorneys, in violation of section 5.6(J)(3)(c). *See* Jacoski Decl. ¶¶ 34, 47. AIJ maintains that interpreters and support staff are subject to a “preapproval process” to accompany attorneys that may take up to two weeks to complete. *Id.* ¶ 37. If such a preapproval process were applied uniformly, that requirement would go beyond a “procedure for random criminal background and warrant checks” envisioned in sections 5.6(I)(3) and (J)(3)(c). AIJ also complains that its attorneys cannot bring laptops or phones with them into visitation rooms, which is not required by the PBNDS, and that AIJ attorneys have had to wait up to an hour-and-a-half to use an attorney-client visitation room. *Id.* ¶¶ 34, 39. The PBNDS do not require facilities to permit anything beyond pen and paper in a visitation room and do not speak to wait times. AIJ’s allegations regarding in-person visitation are largely unanswered or explicitly conceded. *See* Declaration of Acting Assistant Field Office Director Jonathan Ruiz, ECF No. 66-2 ¶¶ 23-30 (“Ruiz Decl.”).

As for telephonic and VTC communications, AIJ alleges that detainees “must make calls from telephones located in the open housing unit, which are within an earshot of other detained individuals and guards;” detainees are not permitted to make phone calls from an administration office. Jacoski Decl. ¶ 15. AIJ further alleges that these telephones are both next to a recreational television and a guard station. *Id.* ¶¶ 16-17. If true, Krome does not “provid[e] a reasonable number of telephones on which detainees can make [legal] calls without being overheard by staff or other detainees,” in violation of section 5.6(F)(2). Calls to pro bono legal service providers must also be “free” pursuant to section 5.6(E)(3), and AIJ maintains that the instructions to access a free line are so complicated as to actually prevent detainees from making free legal calls. Jacoski Decl. ¶ 25. Finally, AIJ complains that calls have occasionally dropped. *Id.* For its part, Krome

maintains that it does in fact offer a free pro bono line, that it posts instructions on how to use the pro bono line, and that phone banks generally permit private calls. Ruiz Decl. ¶¶ 15-22. Defendants agree that there is no VTC conferencing available for legal communications. *Id.* ¶ 24.

Lastly, as to communication of legal documents, Defendants appear to concede that Krome does not permit detainees to use fax or email for legal purposes, which is not required by the PBNDS.

## **B. FIRRP**

Like AIJ, FIRRP is a nonprofit law firm that “provide[s] free legal and social services to [] thousands of adults and children detained immigration custody in Arizona.” Declaration of Laura St. John, ECF No. 55-9 ¶ 2 (“St. John Decl.”). FIRRP specializes in representing “immigrants who are held in geographically isolated detention centers in Eloy and Florence, Arizona.” *Id.* ¶ 5. FIRRP represents their clients before EOIR in “bond proceedings, requests for parole, petitions for release[,] credible fear interviews, reasonable fear interviews, and removal defense.” *Id.* Despite insisting that FIRRP’s clients cannot easily bring suit themselves, FIRRP also admits that it has been counsel of record for their clients as named parties in federal court actions challenging their clients conditions of confinement as to COVID-19 issues. *Id.*

FIRRP states that it represented 249 people “[i]n 2021 alone . . . who were detained in Arizona’s ICE detention centers,” but does not indicate how many clients detained at any given institution FIRRP currently represents. *See id.* Rather, FIRRP only alleges that it currently “represents seven clients with serious mental health conditions” detained at the Central Arizona Florence Correctional Complex (“Florence”). *Id.* ¶ 50. Also like AIJ, FIRRP attaches no declarations from its former, current, or prospective clients to support its contention that Florence is noncompliant with the 2019 National Detention Standards for Non-Dedicated Facilities

(“NDS”).<sup>4</sup> Nor does it identify specific, pending legal proceedings involving a particular client.

For in person visitation, FIRRP alleges conditions worse than those purportedly at Krome. Defendants appear to concede, for example, that Florence has no private rooms in which documents may be passed between attorney and client; worse, visitation areas in which attorneys *can* share documents take place within a “cafeteria”-like setting. St. John Decl. ¶ 41. As such, Defendants evidently further concede that it is impossible for an attorney, for example, to secure a signature on a legal document while confidentially discussing that legal document at the same time.

As for telephonic and VTC communications, FIRRP alleges that legal calls made from all housing units “are never confidential” because other individuals are always within earshot, and “[n]o separate phones are provided for legal calls.” *Id.* ¶ 19. Like AIJ, FIRRP also complains that the process for a free legal call is “extremely complicated” because it involves a “multi-step process.” *Id.* ¶¶ 24-25. Additionally, FIRRP claims that “officials at [Florence] and ICE have told [FIRRP] that schedul[ing] [legal] calls [is] not possible[,] largely due to lack of resources and cost.” *Id.* ¶ 36. Finally, Defendants evidently concede that there is not VTC availability for attorney-client communications.

### C. IJC

Unlike its fellow Plaintiffs, IJC does not provide direct legal services, and is not itself a law firm. *See* Declaration of Rebekah Wolf, ECF No. 55-12 ¶ 5. Rather, it identifies specific

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<sup>4</sup> Because Florence is managed by a private company, CoreCivic, in contract with the United States Marshal Service, it is subject to this slightly different policy. *See* ICE, “2019 National Detention Standards for Non-Dedicated Facilities” (Feb. 18, 2022) *available at* <https://www.ice.gov/detain/detention-management/2019> (last accessed January 25, 2023 1:10 PM ET). On cursory review, it appears that Defendants incorrectly maintain that Florence is subject to the now outdated 2008 Performance-Based National Detention Standards.

detainees referred by other organizations to IJC and, in turn, refers those detainees to “volunteer attorneys.” *Id.* ¶ 9. Unlike FIRRP, it is not tied to any particular detention facility. *See id.* These “volunteer attorneys” are only loosely affiliated with IJC. Although IJC will occasionally provide these attorneys with “mentoring,” it is exclusively the volunteer attorney who takes on a detainee as a client. *Id.* ¶ 14. Although IJC evidently challenges the same conditions of confinement as its fellow Plaintiffs, it does not offer a clear breakdown of the specific conditions challenged like its fellow Plaintiffs. Rather, it recounts specific instances in which volunteer attorneys confronted communications issues at various facilities and how those issues may have impacted then-pending legal proceedings. *See id.* ¶¶ 38-49. Perhaps ironically, IJC’s supporting declaration is actually more detailed regarding specific proceedings than those of its fellow Plaintiffs, but, as discussed below, it is less relevant to the disposition of the Motion because IJC does not itself, and evidently will never, represent any detained immigrant.

#### **D. ISLA**

ISLA is a “nonprofit legal services organization focused on providing pro bono direct representation to detained immigrants in Louisiana.” Declaration of Homero Lopez, Jr., ECF No. 55-6 ¶ 1 (“Lopez Decl.”). It represents detained immigrants at River Correctional Center in Ferriday, Louisiana (“River”), among other institutions. *Id.* ¶ 4. At River, ISLA currently represents two detainees. *Id.* Although ISLA generally “provide[s] representation in matters including bond hearings, expedited removal and credible fear interviews, parole requests, . . . habeas petitions, [and] civil rights complaints,” among others, it does not state in which proceedings it represents its two clients. *See id.* ¶ 6. Because River is managed by a private company, LaSalle Corrections, it is subject to the NDS policy like Florence. *See* ICE, “2019 National Detention Standards for Non-Dedicated Facilities” (Feb. 18, 2022) *available at*

<https://www.ice.gov/detain/detention-management/2019> (last accessed January 25, 2023 1:10 PM ET).<sup>5</sup>

As to visitation, ISLA claims that it must provide 24-hours notice to meet with a detainee. *Id.* ¶ 13. The NDS seems to imply that no notice is required, although the Court does not so find as a matter of law here. NDS § 5.5(G)(3)-(4). ISLA also alleges that the private visitation rooms are insufficiently confidential. For example, it maintains that the main visitation room seats subsequent interviewees within earshot of a table used for in-person visitation. Lopez Decl. ¶ 16.

As to communications technology, ISLA alleges that their “clients have told [them] that their phone calls with us take place at a desk in a hallway. There are multiple desks in that hallway where guards are sitting doing work.” *Id.* ¶ 31. These spaces are evidently the same as those used for prescheduled, attorney-client calls, even after it is ISLA that schedules the call with River staff. *Id.* ¶ 30. Although there is VTC functionality, Defendants admit that “[t]here are no privacy dividers at tablet kiosks” for VTC calls. Reeves Supp. Decl., ECF No. 71-3 ¶ 5.

Detainees at River also do not have access to email or fax machines. Lopez Decl. ¶ 40.

## **E. RAICES**

RAICES is a Texas nonprofit that, among other things, “provides pro bono legal services to low-income immigrants, including immigrants in immigration detention.” Declaration of Javier Hidalgo, ECF No. 55-7 ¶ 5 (“Hidalgo Decl.”). It challenges conditions of confinement at the Laredo Processing Center in Laredo, Texas (“Laredo”). *Id.* Although it once represented detainees at Laredo, it no longer has any clients detained there. *See id.* ¶ 7; Opp. at 15. Moreover, it has expressly decided to forgo taking on any further Laredo detainees as clients unless and until Laredo

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<sup>5</sup> Again, Defendants represent that River is actually governed by the 2011 PBNDS. Declaration of Matthew W. Reeves, ECF No. 66-4 ¶ 7. Based on the Court’s cursory review, that does not appear to be accurate.

provides RAICES easier access to detainees. Hidalgo Decl. ¶ 7.

RAICES alleges that, at some point in the past year, the walls between the private visitation rooms were so thin that sound carried easily. *Id.* ¶ 33. RAICES also complains that, when they last provided legal services at Laredo, they could not bring laptops or cell phones into visitation rooms. *Id.* RAICES further claims that it cannot maintain a confidential call with a detainee (were RAICES to resume legal services to detainees at Laredo) because “other detained people and guards standing near the phone can hear our clients on the phone.” *Id.* ¶ 20. Like the other Facilities, detainees at Laredo do not have email or fax access. *Id.* ¶ 30-31.

#### **F. *Southern Poverty Law Center v. Department of Homeland Security***

Before advancing to the merits, a word on a prior case is necessary. In 2020, this Court was one of very few in the country to enter a preliminary injunction in favor of a legal services organization asserting third-party standing on behalf of their clients and in an effort to better communications restrictions at several distinct ICE detention facilities. *SPLC v. DHS*, Civ. A. No. 18-0760, 2020 WL 3265533, at \*2 (June 17, 2020). It is perhaps because of this case that the five legal services organizations here, none of which has any particular ties to the District of Columbia, decided to file suit in the District of Columbia to achieve very similar relief. The Court’s preliminary injunction in *SPLC* also may have led these five legal-services organization to immediately designate *SPLC* as a related case, despite no organization having any relation to *SPLC* and the detention facilities in this case being distinct from the detention facilities in *SPLC*.

In any event, as necessary context for the reader, the Court provides a brief summary of *SPLC* before proceeding to the merits. In that case, the Southeast Immigrant Freedom Initiative (“SIFI”), through its parent organization the Southern Poverty Law Center (“SPLC”), sought better access to its clients at four ICE detention facilities. *Id.* at \*8. Although *SPLC* first filed for

preliminary relief as to one of the facilities before the inception of the COVID-19 pandemic, the parties resolved that issue without Court intervention. *Id.* However, shortly after the pandemic began, SIFI moved for wide-ranging relief at all the facilities involved in the case, again, on behalf of their present clients. *Id.* They did so because, they alleged and the Court agreed, “in-person consultations [] bec[a]me functionally impossible” due to COVID-19. *Id.* (internal quotation marks omitted). The Court further held that the four facilities’ remote visitation options were insufficient, and punitively excessive, to continue the relationship between SIFI (attorney) and detainee (client). Therefore, and *only* on the basis of the COVID-19 pandemic, the Court granted preliminary relief requiring the four facilities to offer better remote-visitation technology. *Id.* at \*33-34. The Court explicitly offered no opinion whatsoever on the communications technology required where in-person visitation is not “impossible” due to a global pandemic. *Id.* at \*28. Plaintiffs having raised that question here, the Court turns to its resolution.

## II. LEGAL STANDARD

Preliminary injunctive relief is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)); *see also Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam) (“[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.” (internal quotation marks omitted)). A plaintiff seeking preliminary injunctive relief “must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014) (quoting *Sherley*, 644 F.3d at 392 (internal



quotation marks omitted)). When seeking such relief, “the movant has the burden to show that all four factors, taken together, weigh in favor of the injunction.” *Abdullah v. Obama*, 753 F.3d 193, 197 (D.C. Cir. 2014) (quoting *Davis v. Pension Benefit Guar. Corp.*, 571 F.3d 1288, 1292 (D.C. Cir. 2009)) (internal quotation marks omitted). “The four factors have typically been evaluated on a ‘sliding scale.’” *Davis*, 571 F.3d at 1291. Under this sliding-scale framework, “[i]f the movant makes an unusually strong showing on one of the factors, then it does not necessarily have to make as strong a showing on another factor.” *Id.* at 1291–92.

It is unclear whether the United States Court of Appeals for the District of Columbia Circuit’s (“D.C. Circuit”) sliding-scale approach to assessing the four preliminary injunction factors survives the Supreme Court’s decision in *Winter*. See *Save Jobs USA v. U.S. Dep’t of Homeland Sec.*, 105 F. Supp. 3d 108, 112 (D.D.C. 2015). Several judges on the D.C. Circuit have “read *Winter* at least to suggest if not to hold ‘that a likelihood of success is an independent, free-standing requirement for a preliminary injunction.’” *Sherley*, 644 F.3d at 393 (quoting *Davis*, 571 F.3d at 1296 (Kavanaugh, J., concurring)). However, the D.C. Circuit has yet to hold definitively that *Winter* has displaced the sliding-scale analysis. See *id.*; see also *Save Jobs USA*, 105 F. Supp. 3d at 112. In light of this ambiguity, the Court shall consider each of the preliminary injunction factors and shall only evaluate the proper weight to accord the likelihood of success if the Court finds that its relative weight would affect the outcome.

### III. DISCUSSION

The parties litigate a battery of legal issues that the Court addresses *seriatim*. First, the Court repeats its holding in *SPLC II* that it has subject matter jurisdiction over this action to the extent Plaintiffs’ claims do not arise from immigration removal proceedings. Second, the Court concludes that all Plaintiffs but IJC have organizational standing to advance their First Amendment

and *Accardi* claims, although the Court does not proceed to the merits of their First Amendment claim because Plaintiffs do not press it in their pending Motion. Third, the Court holds that all Plaintiffs but IJC and RAICES also have third-party standing to advance their claims. Because IJC cannot establish constitutional standing, the Court dismisses IJC as a party for lack of jurisdiction.

As to the merits, the Court concludes that only FIRRP makes a clear showing of likelihood of success on its punitive-detention claim on behalf of its present clients. Because FIRRP makes such a showing on a constitutional claim, the Court finds that its clients suffer irreparable harm and that the balance of the equities weighs in favor of preliminary relief. Plaintiffs do not establish a likelihood of success on the merits as to any other claim.

However, the preliminary relief that the Court orders is limited. Within 60 days of the entry of the order accompanying this Memorandum Opinion, Defendants shall ensure that Florence *either* (1) installs six private, confidential attorney-client visitation rooms in which counsel may utilize translation services and physically pass documents to and from their detainee client *or* (2) installs or transfigures a ratio of twenty-five telephones to one detainee that block all others from listening to legal calls while in progress.

#### **A. Subject Matter Jurisdiction**

The Court begins by briefly addressing subject matter jurisdiction. As this Court explained in *SPLC II*, federal law bars a district court from exercising jurisdiction over any claim “arising from” a proceeding to remove an immigrant from the United States. *Id.* at \*4 (citing 8 U.S.C. § 1252(b)(9)). Put differently, if a claim does not “arise from” such a proceeding, then federal district courts otherwise have jurisdiction over such a claim. *Id.* The line between a claim that “arises from” such a proceeding and one that does not is, as the Court noted in *SPLC II*, rather

blurred. *Id.* After reviewing relevant precedent and considering section 1252(b)(9)’s text, the Court concluded that it has jurisdiction over a detainee’s Fifth Amendment claim where the merits of the claim do not depend upon the effect the challenged conduct has over a pending removal proceeding. *See id.* at \*6. Put differently, “on the one hand, where a Fifth Amendment claim centers on the process due in removal proceedings, it is barred; where a Fifth Amendment claim centers on the process due in any other proceedings, on the other hand, it is not barred.” *Id.*

Defendants acknowledge this holding and do not ask the Court to revisit it. Rather, Defendants argue that, unlike in *SPLC II*, “organizational plaintiffs [] seek to raise a Fifth Amendment due process access to counsel claim on behalf of their detained clients, whom they represent in both bond hearings and removal proceedings.” *Opp.* at 19. In fact, the plaintiff in *SPLC II* was an organizational plaintiff that did represent detained clients in both bond and removal proceedings. The Court held that it could not exercise jurisdiction over a Fifth Amendment claim tied to removal proceedings, but it could exercise jurisdiction over a claim predicated on bond hearings. *SPLC II* at \*8. Because Defendants provide no legal argument to depart from that holding here, the Court shall not revisit it. As such, the Court holds that it has subject matter jurisdiction over each of Plaintiffs’ claims to the extent they do not depend on any removal proceedings.

## **B. Organizational Standing**

Defendants first argue that no Plaintiff can maintain organizational standing to assert claims on behalf of itself. As noted above, on their own behalf, Plaintiffs advance a First Amendment claim and an *Accardi* claim. *Am. Compl.* at 66, 68. The standing analysis for organizations is functionally the same as it is for individuals: (1) an injury in fact that (2) caused by the challenged conduct (3) that the Court can redress. *See Haitian Refugee Ctr. v. Gracey*, 809

F.2d 794, 799-80 (D.C. Cir. 1987). Where an organization’s mission or activities are at stake, the organization must show “such concrete and demonstrable injury to the organization’s activities—with a consequent drain on the organization’s resources—constituting more than simply a setback to the organization’s abstract social interests.” *Nat’l Ass’n of Home Builders v. EPA*, 667 F.3d 6, 11 (D.C. Cir. 2011).

On a First Amendment claim, the D.C. Circuit has already held that a legal organization whose access to potential clients has been hindered by government action has organizational standing to challenge such action. *Ukr.-Am. Bar Ass’n v. Baker*, 893 F.2d 1374, 1378 (D.C. Cir. 1990). It was “apparent” in that case that “the inability to counsel potential [immigrant detainees] would interfere with [a bar association’s] activities [in providing legal services].” *Id.* As a rule, where government action makes it more difficult for an attorney to communicate with a potential client, the attorney must expend more resources (financial, logistical, etc.) to reach that potential client. *See id.* Because the Court has the judicial power to remedy constitutional injuries and set aside administrative actions not otherwise in accordance with law, clear appellate precedent mandates a holding that Plaintiffs AIJ, FIRRP, ISLA, and RAICES have standing to advance their First Amendment and *Accardi* claims.<sup>6</sup>

That leaves IJC. As noted above, IJC does not itself represent detainees. Rather, it identifies specific detainees referred by other organizations to IJC and, in turn, refers those detainees to “volunteer attorneys.” ECF No. 55-12 ¶ 9. These “volunteer attorneys” are only

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<sup>6</sup> In opposition, Defendants rely almost entirely on *Am. Immigration Lawyers Ass’n v. Reno*, 199 F.3d 1352 (D.C. Cir. 2000). That reliance is misplaced. *Am. Immigration* deals exclusively with third-party standing; the Circuit began its analysis by explaining that the organizational plaintiffs “ha[d] not pressed their First Amendment claim on appeal[,] leaving only” the claims of others. *Id.* at 1357.

loosely affiliated with IJC. Although IJC will occasionally provide these attorneys with “mentoring,” it is exclusively the volunteer attorney who takes on a detainee as a client. *Id.* ¶ 14. Indeed, before a volunteer attorney accepts a referral from IJC, the volunteer attorney must attest that the attorney will provide services to the detainee free of charge, that the attorney will shoulder “all costs associated with the case,” and, among other things, “that IJC is available for mentorship, practice resources, and guidance on the case, but is not co-counsel in the case.” *Id.* The “mentorship” program involves communications between an IJC attorney (or staff) and the volunteer attorney, but not, as far as the Court can glean from the record, communications between an IJC attorney, a volunteer attorney, *and* a detainee. *See id.* ¶ 16; ECF No. 69-6 ¶ 1 (discussing a case an IJC attorney “mentored” but where only the volunteer attorney communicated with the detainee).

On these facts, IJC has not shown standing to challenge the government activity that, according to the operative complaint, form the basis of its claims. For example, IJC allege in their First Amendment claim that the communications restrictions “have interfered with and obstructed IJC’s ability to ensure that their volunteer attorneys have access to Detained Clients.” Am. Compl. ¶ 184. Although the communications restrictions may have injured the *attorneys’* efforts to communicate with their clients, they have not injured *IJC* in communicating with detainees. In this regard, IJC has itself shouldered the costs of “redirect[ing] some of its resources to litigation and legal counseling” in furtherance of IJC’s public-policy goal of increased representation for immigrants to the United States. *See Nat’l Taxpayers Union, Inc. v. United States*, 68 F.3d 1428, 1434 (D.C. Cir. 1995). Because the injuries allegedly suffered are not the injuries that are the locus of the claims in this matter, IJC has not pled sufficient facts to establish organizational standing.

Although IJC has not pled the argument, it is possible that IJC meant to assert *associational* standing, rather than organizational standing.<sup>7</sup> Unlike organizational standing, which asks whether the organization *itself* has been injured, associational standing asks whether one of the organization’s *members* has been injured. *Id.* at 1435. This theory—which the Court addresses only for the purposes of future briefing—fails because, based on the facts as pled, the volunteer attorneys are not IJC’s “members.” Whether the person on whose behalf the organization asserts standing is its “member” turns on whether “the individual[] play[s] a role in selecting the organization’s leadership, in guiding the organization’s activities, [or] in financing the organizations activities.” *Flyers Rights Educ. Fund, Inc. v. U.S. Dep’t of Transp.*, 957 F.3d 1359, 1361 (D.C. Cir. 2020) (finding airline passengers were “members” of passenger rights group because, among other things, passengers answer “petitions” to assist organization leadership in setting organization’s priorities and goals). IJC has not pled, for example, that volunteer attorneys are ever involved in management of IJC, ever select IJC’s leadership, or even simply pay dues as a member of a bar association might. Nor is there any indication that IJC consults volunteer attorneys at all about IJC’s goals and strategies beyond simply matching volunteer attorneys with detainees referred by other organizations. Indeed, the declaration IJC requires a volunteer attorney to sign before receiving an IJC referral explicitly keeps the volunteer attorney at arm’s length, providing no financial assistance or any other pecuniary benefit beyond the occasional legal advice.

As such, for the purposes of the operative complaint as it is currently pled, IJC has failed to demonstrate Article III standing. Having failed to do so, IJC is dismissed as a plaintiff for lack

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<sup>7</sup> The Court addresses this theory *sua sponte* and in dicta only for the sake of completeness and further briefing.

of subject matter jurisdiction. *See Weaver's Cove Energy, LLC v. R.I. Dep't of Env't Mgmt.*, 524 F.3d 1330, 1334 (D.C. Cir. 2008) (directing court to dismiss party *sua sponte* on jurisdictional grounds where party lacks standing)

### C. Third-Party Standing

Next, Defendants argue that Plaintiffs RAICES and IJC do not have third-party standing. As the Court explained in *SPLC I*, a plaintiff “generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.” *Warth v. Seldin*, 422 U.S. 490, 499 (1975). The Supreme Court has not “treated this rule as absolute, however,” and has “recogniz[ed] that there may be circumstances where it is necessary to grant a third party standing to assert the rights of another.” *Kowalski v. Tesmer*, 543 U.S. 125, 129-30 (2004). These circumstances, however, are quite limited, and usually only found in three contexts: attorney-client, vendor-vendee, and employer-employee. *See id.* at 129.

A party relying on a claim of third-party standing must satisfy three requirements: (1) “injury in fact,” (2) “a close relation to the third party,” and (3) “some hindrance to the third party’s ability to protect his or her own interests.” *Powers v. Ohio*, 499 U.S. 400, 411 (1991); *see Kowalski*, 543 U.S. at 130 (describing latter two requirements as “additional showings” on top of injury in fact requirement). An injury in fact must be “an invasion of a legally protected interest that is ‘concrete and particularized,’ ‘actual or imminent,’ and ‘fairly traceable’ to the challenged act of the defendant, and likely to be redressed by a favorable decision in the federal court.” *Navegar, Inc. v. United States*, 103 F.3d 994, 998 (D.C. Cir. 1997) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992)). In the organizational context, the first question is the same as organizational standing, which the Court has already resolved in favor of Plaintiffs. *See Ukrainian-Am. Bar*, 893 F.2d at 1378. Therefore, the Court proceeds to the second prong, a close

relationship with an injured third party.

# 1. Close Relationship

As the Court explained in *SPLC I*, “the [Supreme] Court has never required a *confidential* relationship between the parties in order to have standing. To the contrary, it has only required a ‘close relation’ in the sense that there must be an identity of interests between the parties such that the plaintiff will act as an effective advocate of the third party’s interests.” *SPLC I* at \*13 (quoting *Lepelletier v. FDIC*, 164 F.3d 37, 44 (D.C. Cir. 1999)). In *SPLC I*, the Court rested its conclusion that the organizational plaintiff maintained third-party standing entirely on “the attorney-client relationship.” *Id.* (citing *Caplin & Drysdale, Chartered v. United States*, 491 U.S. 617, 623 n.3 (1989)) (finding that lawyer could bring lawsuit on behalf of criminal defendant).

As to RAICES, the Court concludes that a legal-services organization cannot establish a close relationship with only a hypothetical client. As discussed above, RAICES has not shown that it currently maintains any attorney-client relationship. *Supra* at 13. Indeed, it has expressly insisted that it does not even seek an attorney-client relationship with any detainee at Laredo unless and until Laredo makes it easier for RAICES to speak with prospective clients. As a threshold matter, even lawyers “often fail” to “achiev[e] standing to rely on the rights of their clients;” they generally succeed only, as in *SPLC I*, where they challenge on their clients’ behalf “interferences with the ability to provide effective representation.” Wright & Miller 13A Fed. Prac. & Proc. § 3531.9.3 (West 2023) (collecting cases).<sup>8</sup>

Where an organization does not maintain an attorney-client relationship, and does not

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<sup>8</sup> The Supreme Court has explicitly found a “close relationship” in an attorney-client relationship where challenged government activity interferes directly with “a third party from entering into a relationship with [an attorney as] the litigant, to which relationship the third party has a legal entitlement (typically a constitutional entitlement).” *U.S. Dep’t of Labor v. Triplett*, 494 U.S. 715, 721 (1990) (Scalia, J.).



actively seek one, the Court runs the risk of ruling on a constitutional issue “unnecessarily, [where] it may be that in fact the holders of those rights [] do not wish to enjoy them.” *See Singleton v. Wulff*, 428 U.S. 106, 113-14 (1976) (Blackmun, J.) (plurality op.). To be sure, “an intimate familial or advisory relationship . . . is not dispositive,” but the Court must assure itself that *some* relationship exists lest the Court veer into constitutional decision-making unnecessarily. *See Amato v. Wilentz*, 952 F.2d 742, 752 (3d Cir. 1991). In denying third-party standing to attorneys on behalf of potential clients, the Supreme Court has noted an “*existing* attorney-client relationship is, of course, quite distinct from the *hypothetical* attorney-client relationship.” *Kowalski v. Tesmer*, 534 U.S. 125, 131 (2004) (emphasis original). *Accord Hand v. Perez*, Civ. A. No. 14-0880 (BAH), 2015 WL 3534162, at \*7 (D.D.C. June 5, 2015) (because “the plaintiff ha[d] not demonstrated any relationship with any known” party whose rights had been affected by the challenged government action, she lacked third-party standing).

The lack of an *actual* attorney-client relationship is even more troubling for standing purposes when considering the ultimate merits of the case. As the Court noted in *Kowalski*, it is substantially more difficult for a litigant to demonstrate third-party standing outside of the context of the First Amendment. *Id.* For example, an attorney generally may not invoke third-party standing on behalf of his client simply to advance *any* of his client’s claims. *See Conn v. Gabbert*, 526 U.S. 286, 292 (1999). Indeed, beyond the conditions-of-confinement claim, the organizational plaintiffs will eventually have to show the effects of communications restrictions on *specific* legal proceedings as to *specific* clients. The Court cannot determine whether limited VTC access has impeded a detainee’s full-and-fair hearing without considering *how* that limited VTC access has impeded the outcome of *that* hearing. *Infra* at 34. This inquiry necessarily goes beyond whether the relationship itself has been affected and depends upon the existence of an *actual* relationship.

*See HomeAway Inc. v. City and Cty. of S.F.*, Civ. A. No. 14-4859 (JCS), 2015 WL 367121, at \*6-7 (N.D. Cal. Jan. 27, 2015). As such, the Court concludes on this basis alone that RAICES has not sufficiently demonstrated third-party standing.

For the sake of completeness, the Court shall pause to explain that, even if IJC had constitutional standing, it would not have third-party standing. First, IJC really attempts to fashion a kind of “fourth-party” standing. Contrary to the operative complaint, which purports to advance third-party claims on behalf of IJC’s “Detained Clients,” Am. Compl. at 67, IJC does not have clients. At most, IJC occasionally provides resources to volunteer attorneys, and that relationship is between IJC and volunteer attorneys, not IJC and detainees. Truly, IJC attempts to advance another party’s attempt to advance claims on behalf of that other party’s client.

In this regard, IJC is neither a “vendor” that sells services to customers nor an “employer” who seeks to litigate on behalf of their employees, the two other main categories of litigants that the Supreme Court has found possess the close relationship necessary for third-party standing. *See Lepelletier v. FDIC*, 164 F.3d 37, 44 (D.C. Cir. 1999). In *Lepelletier*, for example, the Circuit applied such precedent to conclude that a plaintiff who sought to “develop a business relationship” with those on whose behalf he possessed third-party standing. *Id.* Similarly, in *Turner v. U.S. Agency for Glob. Media*, 502 F. Supp. 3d 33 (D.D.C. 2020), a case on which Plaintiffs rely, the plaintiff sought to assert standing on behalf of employees and coworkers suffering the exact same injury as her and who would advance the exact same cause of action as she would. *See id.* at 361. To the extent that this Circuit has implied that *any* “identity of interests” is sufficient to demonstrate a close relationship for third-party standing, as Plaintiffs insist, Supreme Court precedent makes clear that merely sharing the same goals and desires as a third party does not create the requisite relationship. As such, the Court concludes that IJC has not sufficiently

demonstrated third-party standing.

## 2. Hindrance

Although the Court has concluded that RAICES and IJC fail at the first step, which requires a close relationship, the Court pauses to briefly address the next step, hindrance. As the Court suggested in *SPLC I*, whether the detainees at the Facilities are hindered in asserting their own rights is very much bound up in the merits of Plaintiffs claims. The question is the same: whether the communications restrictions across the Facilities prevent sufficient access to judicial process. If so, then the detainees on whose behalf Plaintiffs assert standing are *in fact* hindered. In *SPLC I*, the Court had little trouble in finding hindrance for the purposes of third-party standing, for it found that the communications restrictions at the detention facilities in that case *did* unconstitutionally restrict access to the plaintiff, their attorneys.<sup>9</sup> As discussed below, that merits question is much more fraught in this case.

## D. Merits

### 1. Punitive Detention

The court previously set out the law on Defendant's first substantive due process claim in *SPLC I*. In the immigration context, detention is "undisputedly civil—*i.e.*, non-punitive in nature." *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 187 (D.D.C. 2015). The detainees at issue in this

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<sup>9</sup> In light of Defendants' concession in the instant briefing that the remaining Plaintiffs possess constitutional and third-party standing, the Court does not now address the question at any length. Nevertheless, the Court notes that, unlike the plaintiff in *SPLC*, no Plaintiff here has not yet identified any client's actual identity. Moreover, AIJ and FIRRP have both already demonstrated that their clients were not hindered in bringing suits themselves to challenge their conditions of confinement in the past. Neither AIJ nor FIRRP have explained what has changed. That said, because the issue has been conceded, and the doctrine of third-party standing is merely prudential, the Court shall leave whether AIJ has third-party standing for another time. Whether Plaintiffs AIJ and FIRRP possess statutory standing to advance their third-party Rehabilitation Act claims is addressed below.

case are therefore “entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish.” *Youngberg v. Romeo*, 457 U.S. 307, 322 (1982). “While a convicted prisoner is entitled to protection only against ‘cruel and unusual’ punishment [under the Eighth Amendment], a [civil] detainee, not yet found guilty of any crime, may not be subjected to punishment of any description.” *Hardy v. Dist. of Columbia*, 601 F. Supp. 2d 182, 188 (D.D.C. 2009) (quoting *Hill v. Nicodemus*, 979 F.2d 987, 991 (4th Cir. 1992)). As a result, “where it is alleged that a [pretrial or civil] detainee has been deprived of liberty without due process, the dispositive inquiry is whether the challenged condition, practice, or policy constitutes punishment.” *Block v. Rutherford*, 468 U.S. 576, 583 (1984).

To make such a showing, a detainee must establish either “subjective intent to punish” or “that a restriction is unreasonable or excessive relative to the Government’s proffered justification.”<sup>10</sup> *SPLC I* at \*18 (quoting *United States v. Moore*, Crim. A. No. 18-198 (JEB), 2019 WL 2569659, at \*2 (D.D.C. June 21, 2019)). In other words, the greater the number of “alternative and less harsh methods” to achieve an institution’s non-punitive goals, the more likely the challenged conduct is “punitive” within the meaning of the Fifth Amendment. *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979) (pretrial context). Nevertheless, “[c]ourts must be mindful that these inquiries spring from constitutional requirements and that judicial answers to them must reflect that fact rather than a court’s idea of how best to operate a detention facility.” *Id.* at 539.

Although a number of other cases have considered this question since the Court’s opinion

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<sup>10</sup> Most cases that apply this standard do so in the context of pre-trial detainees in prison. However, there is nothing to suggest that the same standard should not apply to other civil detainees such as the detained immigrants here, and cases have recognized the same. See, e.g., *Doe v. Kelly*, 878 F.3d 710, 714 (9th Cir. 2017) (applying standard in immigration detainee context); *Torres*, 411 F. Supp. 3d at 1064 (same); cf. *Matherly v. Andrews*, 859 F.3d 264, 274-75 (4th Cir. 2017) (applying standard to civil commitment under Adam Walsh Act).

in *SPLC I*, it appears *Torres v. United States Dep’t of Homeland Sec.*, 411 F. Supp. 3d 1036 (C.D. Cal. 2019) remains the only case to confront communications restrictions in immigration detention facilities outside the COVID-19 context. Following the sound analysis in *Torres*, the Court agreed in *SPLC* that restrictions on detainee communications can constitute, in some circumstances, “punitive” detention where “alternative and less harsh methods” are available that equally serve the institution’s legitimate interests. *SPLC I*, 2020 WL 3265533, at \*30 (quoting *Torres*, 411 F. Supp. 3d at 1036).

Nevertheless, the Court stresses that its conclusion in *SPLC I* was context dependent. The Court’s conclusion that the plaintiff legal organization was likely to succeed on its third-party punitive-detention claim because COVID-19 effectively vitiated any possibility of counsel meeting with clients in person. *Id.* at \*31. At that time, the Centers for Disease Control recommended that all institutions “suspend[] or modify[] visitations programs” and provide “alternate means (e.g., phone or video visitation)” to facilitate attorney-client communications. *Id.* at \*21 (quoting CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities at 13, <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf> (last updated March 27, 2020)). In other words, because Defendants were scientifically incapable of eliminating community spread arising from in-person visitation, no “less harsh” alternative in lieu of effective VTC and telephonic communications was available. *Id.* at \*21 (citing, *inter alia*, *Bell*, 441 U.S. at 539 n.20). For the reasons that follow, the Court concludes that only Plaintiff FIRRP has shown a clear likelihood of success on the merits of its punitive-detention claim.

*i. In-Person Visitation*

Here, Plaintiffs concede that there are at least *some* in-person visitation rooms at each of

the Facilities. *See generally* Pl.’s Factual Comparison Chart, ECF No. 69-1. Plaintiffs, however, argue that there are not enough rooms at each Facility and/or some restrictions applied to visits in these spaces nullify the value of in-person visitation. For example, at Krome, AIJ complains (and Defendants concede) that its attorneys cannot bring laptops, printers, or phones into visitation spaces. *Id.* at 1. Plaintiffs further allege that the preapproval process for interpreters is too long to make an in-person visit worthwhile. *Id.* At Laredo, Plaintiffs insist that two rooms are insufficient for a Facility with capacity for 404 detainees, that the rooms are insufficiently private, and that attorneys generally may not bring cell phones or laptops into the spaces. *Id.* At River, Plaintiffs claim that the three rooms are insufficient in number and insufficiently private, and also argue that they should be permitted to bring computers, telephones, and printers with them. *Id.* at 2. Finally, at Florence, Plaintiffs again maintain that two rooms are insufficient for the Facility and also that a policy permitting laptops and phones is unevenly applied. *Id.* at 3.

Usually, a punitive-detention claim proceeds in two stages. First, a plaintiff attempts to show a “presumption” of punitive detention by establishing that the conditions of confinement applicable to civil (e.g., pretrial or immigrant) detainees are equal to or worse than conditions experienced by inmates convicted of a criminal offense. *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004); *see also, e.g., Ibarra-Perez v. Howard*, 468 F. Supp. 3d 1156, 1172 (D. Ariz. 2020). As noted above, upon establishing such a presumption, a makeshift burden then generally shifts to the defendant to establish that the conditions are rationally related to a non-punitive purpose and those conditions are not excessive. *See Fraihat v. USCIS*, 16 F.4th 613, 648-49 (9th Cir. 2021).

As a threshold matter, Plaintiffs have not made a clear showing of a “presumption” of punitive detention. To compare the conditions at the Facilities to other institutions, Plaintiffs rely

on four declarations by criminal-defense attorneys.<sup>11</sup> All but one are limited exclusively to pretrial detention facilities where those detainees possess the same substantive due-process rights as Plaintiffs’ current or potential clients.<sup>12</sup> Only the Tibbett Declaration mentions what appears to be a carceral institution, a “TGK Correctional Center,” but the Declaration does not clarify whether Tibbett, a “criminal defense attorney,” visits *inmates* at this “Correctional Center” rather than merely pretrial detainees. *Id.* ¶¶ 3, 4-9. As such, Plaintiffs have yet to show that the in-person visitation restrictions at the Facilities are equal to or worse than those experienced by inmates in punitive detention.

Having failed to make that showing, the Court begins with the general, salutary principle that judges do not make good jailers, and the Court should be wary to assess the particulars of any given restriction. *Cf. Turney v. Safley*, 482 U.S. 78, 84-85 (1987) (“Running a prison is an inordinately difficult undertaking that requires expertise, planning, and the commitment of resources, all of which are peculiarly within the province of the legislative and executive branches of the government.”).<sup>13</sup> In support of the challenged restrictions, Defendants rely mainly on their interests in “ensuring [internal] security and order” at each of the Facilities. *Opp.* at 31 (quoting *Bell*, 441 U.S. at 561). As Defendants note, even “discomfiting” restrictions that serve these ends are not themselves unconstitutional merely because they are unseemly or, in the view of many, immoral. *See Bell*, 441 U.S. at 547.

As to limitations on cell phones and computers (at Krome, for example), Defendants tie

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<sup>11</sup> Botello Decl., ECF No. 55-4; Blanchard Decl., ECF No. 55-13; Tibbett Decl., ECF No. 55-5; Maldonado Decl., ECF No. 55-8.

<sup>12</sup> Botello Decl. ¶¶ 7-10, ECF No. 55-4; Blanchard Decl. ¶¶ 4-9, ECF No. 55-13; Tibbett Decl. ¶¶ 4-7, ECF No. 55-5; Maldonado Decl., ¶ 5, ECF No. 55-8.

<sup>13</sup> *Cf. also Inmates of Occoquan v. Barry*, 844 F.2d 828, 836 (D.C. Cir. 1988) (“the administration of prisons implicates broader concerns over judicial competence to decree sweeping modifications in prison settings”).

these limitations to security, ECF No. 66-2 ¶ 26, and the Supreme Court explicitly endorsed this justification in *Florence v. Bd. of Chosen Freeholders of Cty. of Burlington*, 566 U.S. 318, 332 (2012). As to the other restrictions, although Krome places a plastic divider between a detainee and a visitor in its “Personal Visitation Phone Booths,” there is no such obstruction in the six “Contact Visit Rooms” used for legal visits. ECF No. 66-2 ¶ 23. Lastly, restrictions on interpreters and interpretation services do not rise to the level of constitutional opprobrium.

As a threshold matter, the parties significantly differ on the scope of the restrictions. Compare, e.g., Jacowski Supp. Decl. ¶¶ 6-7 with Davidson Supp. Decl. ¶¶ 12-13. To the extent the Court must resolve these factual disputes at this early stage of the case, it is more difficult to credit Plaintiffs’ accounts because they include no affidavits from any interpreter. In any event, it appears only Krome raises a potential problem, because Krome prevents an attorney from contacting an interpreter by telephone. Yet Defendants maintain that “attorneys and legal representatives regularly bring interpreters to client meetings at Krome.” Davidson Supp. Decl. ¶ 12. On the Court’s review, it does not appear that any of Plaintiff’s supporting declarations actually contest this assertion. Laredo and River also offer private rooms for legal consultation, ECF No. 66-3 ¶ 23 (Laredo); ECF No. 66-4 ¶ 18 (River), although ISLA contests the degree of privacy, Lopez Decl. ¶¶ 16-17.

As such, for Krome, Laredo, and River, the question is whether restrictions on in-person legal visitation are “punitive” when: (1) there is a wait time for visitation rooms; (2) attorneys may not bring phones or laptops into some visitation rooms; and (3) there are sometimes bureaucratic challenges in ensuring an interpreter can accompany an attorney where the attorney may not avail themselves of telephonic interpretive services. Because Plaintiffs have not established a “presumption” of punitive detention and Defendants cite their interests in



institutional security, the Court cannot find on the present record that Plaintiffs have *clearly* shown that the challenged restrictions on in-person visitation are not related to non-punitive interests or that the restrictions are “excessive” relative to those interests. After all, the policies and practices described by Defendants generally (but certainly not entirely) comply with ICE’s Performance-Based National Detention Standards. Each facility has space ensuring that, under Defendants’ more experienced telling, “[v]isits between legal representatives and assistants and an individual detainee are confidential and shall not be subject to auditory supervision.” PBDNS § 5.7(II)(2). Additionally, each Facility has “[p]rivate consultation rooms . . . for such meetings.” *Id.*

Defendants perhaps *could* adopt the more permissive policies of the other institutions named in Plaintiffs’ declarations, but the Fifth Amendment does not require that they do so. *Cf. Turner v. Safley*, 482 U.S. 78, 90 (1987). Just because one pretrial detention facility provides certain amenities does not mean every other pretrial detention facility in America must adopt those amenities lest they “punish” their detainees.<sup>14</sup>

Restrictions at Florence, however, are in a different category. Florence has no private rooms in which documents may be passed between attorney and client, and visitation areas in which attorneys can share documents take place within a “cafeteria”-like setting. ECF No. 55-9 ¶ 41. As such, it is impossible for an attorney to secure, for example, a signature on a legal document while discussing that legal document at the same time. If only an auditory meeting can occur between attorney and client, then a Facility does not have a “[p]rivate consultation room[] for such meetings.” *See* NDS § 5.7(II)(2). As such, Plaintiff FIRRP has demonstrated that Florence is not in compliance in any fashion with the NDS as to in-person legal visits.

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<sup>14</sup> True, the Supreme Court has effectively adopted such a rule for the Free Exercise Clause. *See Tandon v. Newsom*, 141 S. Ct. 1294, 1297-89 (2021). Yet the Court has shown no inclination to extend this rule to other reaches of constitutional jurisprudence.

ii. *Telephone and VTC Communications*

Plaintiffs also argue that certain VTC and telephone restrictions are unconstitutionally punitive. Before addressing Plaintiffs’ specific complaints, the Court begins by stressing that it previously found certain VTC and telephone restrictions unconstitutionally punitive in *SPLC I* only because the COVID-19 pandemic effectively prohibited in-person visitation. 2020 WL 3265533, at \*18. In other words, without functional VTC and telephone communications, detainees could not communicate with their attorneys *at all*. *See id.* Moreover, the Court only found a constitutional violation based on “the totality of these circumstances—[including, but not limited to,] the lack of viability of in-person visits, the scheduling and quality issues of VTC, and the other conditions discussed” and stressed that no *one* restriction could itself trigger a constitutional violation. *Id.* at \*24.

As to telephone access, the Court first reiterates what PBNDS and NDS generally required of the Facilities (although compliance with PBNDS is technically optional) and then turns to Plaintiffs’ allegations. First, the Facilities must “provide detainees with reasonable and equitable access during established facility waking hours.” *Id.* § 5.4(II)(A). There must be at least “one operable telephone for every 25 detainees,” they must generally be kept in working order, and they must be free if made to attorneys. *Id.* § (II)(C)-(E). To ensure privacy for legal calls, a facility may install, among other things, privacy panels, separate phones from the earshot of others, or to use an office (i.e., a staff) phone. *Id.* § (II)(J).

Plaintiffs allege broadly that Krome, Laredo, River, and Florence do not offer private, confidential calls with attorneys mainly due to the placement of telephones. At Krome, Plaintiff AIJ alleges that detainees “must make calls from telephones located in the open housing unit, which are within an earshot of other detained individuals and guards;” nor are they permitted to

make phone calls from an administration office. Jacoski Decl. ¶ 15. AIJ further alleges that these telephones are both next to a recreational television and a guard station. *Id.* ¶¶ 16-17. Finally, Plaintiffs claim that there is no method to schedule a call with Krome administration. Defendants contest all but the precise location of some phones in some residential units relative to guard posts and televisions. *See Ruiz Decl.* ¶¶ 8-24. It is more difficult to credit Plaintiffs' supporting declarations because, on the Court's review, it does not appear that the declarant alleges that they have toured all areas with phones. Again, Plaintiffs incorporate no declaration from any detainee actually resident at Krome. On the latter point, Defendants appear to offer no response. As such, it appears from the record as it stands at this early juncture that Krome is in substantial compliance with the PBNDS, notwithstanding some question as to whether there is sufficient privacy as to one bank of telephones in an unidentified housing unit. *See Memorandum Opinion and Order*, ECF No. 209 at 9, *SPLC v. ICE*, Civ. A. No. 18-0760 (CKK) (D.D.C. June 30, 2022) (slip op.) (discussing substantial compliance in context of PBNDS telephone policy).

All claims as to Laredo are exclusively advanced by RAICES which, as noted above, does not currently represent any detainee at Laredo and does not seek to provide legal services unless and until "it bec[o]me[s] easier to communicate with [potential] clients."<sup>15</sup> *Hidalgo Decl.* ¶ 7. RAICES claims that it cannot maintain a confidential call with a detainee (were RAICES to resume legal services to detainees at Laredo) because "other detained people and guards standing near the phone can hear our clients on the phone." *Id.* ¶ 20. Although a former client presumably conveyed this allegation to a RAICES staff-member, that is pure conjecture from RAICES rather limited

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<sup>15</sup> The Court's discussion of conditions at Laredo is largely academic as the Court has concluded above that RAICES likely does not have third-party standing to advance a punitive-detention claim on behalf of nonexistent clients.

declaration. *See id.*<sup>16</sup> Additionally, it appears RAICES has scheduled private calls with former clients through Laredo administration, although some Laredo staff were unhelpful or dismissive. *See id.* ¶¶ 23-24. For their part, Defendants claim that all legal calls are unmonitored, legal calls can be scheduled, and the process for a detainee to schedule a legal call “are posted on bulletin boards located in each dorm and by the telephones as well.” Cerna Decl., ECF No. 66-3 ¶¶ 18-20. As with Krome, it appears that Laredo is in substantial compliance with the PBNDS, notwithstanding some question as to whether there is sufficient privacy as to one bank of telephones in an unidentified housing unit.

For River, Plaintiff ISLA claims that it has represented approximately a dozen detainees held at the institution. Lopez Decl., ECF No. 55-6 ¶ 4. ISLA alleges that their “clients have told [them] that their phone calls with us take place at a desk in a hallway. There are multiple desks in that hallway where guards are sitting doing work.” *Id.* ¶ 31. These spaces are evidently the same as those used for prescheduled, attorney-client calls, even after it is ISLA that schedules the call with River staff. *Id.* ¶ 30. ISLA’s declaration is more substantial and more substantiated than RAICES’ and raises serious questions as to whether any confidential telephonic communication is available at River, particularly given Defendants’ admission that “[t]here are no privacy dividers at tablet kiosks” for VTC calls. Reeves Supp. Decl., ECF No. 71-3 ¶ 5. Without any response by Defendants as to telephonic privacy at River, it does not appear on this record that River is in substantial compliance with the PBNDS policies regarding telephone access. Again, unlike in *SPLC*, however, Plaintiff ISLA has no supporting declarations by their own clients on which to rely. *See, e.g., SPLC I*, 2020 WL 3265533, at \*26.

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<sup>16</sup> Such a declaration is far more difficult to credit when compared to declarations direct from clients in *SPLC* or a case such as *Torres* in which the clients themselves brought suit.

At Florence, there is no VTC availability beyond the video-call functionality within tablets. Plaintiff FIRRP alleges that legal calls made from housing units “are never confidential” because other individuals are always within earshot, and “[n]o separate phones are provided for legal calls.” ECF No. 55-9 ¶ 19. FIRRP further complains that the process for a free legal call is “extremely complicated” because it involves a “multi-step process.” *Id.* ¶¶ 24-25. Additionally, FIRRP claims that “officials at [Florence] and ICE have told [FIRRP] that scheduled [legal] calls are not possible[,] largely due to lack of resources and cost.” ECF No. 55-9 ¶ 36. Although even this Court in *SPLC I* did not regulate the content of instructions to access free legal calls, it did require confidential calls generally where confidential legal visits were impossible. *See* Memorandum Opinion and Order, ECF No. 209 at 9, *SPLC v. ICE*, Civ. A. No. 18-0760 (CKK) (D.D.C. June 30, 2022) (slip op.). Because, as the Court concluded above, Florence does not actually provide confidential legal visitation, its further failure to ensure confidential legal calls effectively vitiates attorney-client access in its entirety. *See SPLC I*, 2020 WL 3265533, at \*31. Florence’s invocation of its pecuniary interest in avoiding costs overruns, ECF No. 55-9 ¶ 36, does not suffice. *See id.*; *Bell*, 441 U.S. at 540. Even without reaching issues regarding legal correspondence, therefore, the Court concludes that FIRRP has shown a clear likelihood of success on its punitive-detention claim as to Florence.

### *iii. Legal Correspondence*

At Krome, Plaintiff AIJ complains that there is no email or fax access for detainees, and staff “usually waits twenty-four hours after receipt to distribute the mail.” ECF No. 55-3 ¶ 41. The PBNDS do not require access to email or fax for legal correspondence, and they mandate only that “incoming correspondence shall be distributed within 24 hours of receipt by the facility.” PBNDS § 5.1(II)(C). Plaintiff AIJ also protests that Krome staff open legal mail, ECF

No. 55-3 ¶ 41, despite the PBNDS directing facilities to open such mail to inspect it for contraband, PBNDS § 5.1(E)(2). That said, such “inspection shall be in the presence of the detainee.” *Id.* Because AIJ does not assert that legal mail is opened outside the presence of their clients, it appears Krome’s mail policies are in compliance with the PBNDS.

Like at Krome, there is no email or fax access for detainees at Laredo. ECF No. 55-7 ¶ 30-31. Although RAICES alleges one instance of a multi-day delay in the ultimate delivery of legal mail to a former client, RAICES has not demonstrated any systemic delays. *Id.* ¶ 29. As such, Laredo appears to be in compliance with the PBNDS.

Detainees at River also do not have access to email or fax. ECF No. 55-6 ¶¶ 26-28. Although ISLA complains that it faces mail delays that are “longer than average,” it does not elaborate. That said, ISLA alleges that clients must *always* pay to send legal mail. If true, that does not comply with the PBNDS’ requirement that a facility permit an indigent detainee to mail at least five pieces of legal mail per week at the government’s expense. PBNDS § 5.1(H)(2). That said, and particularly without a support declaration by one of ISLA’s clients, the Court finds that ISLA has not shown River is noncompliant with the PBNDS.

Although the Court has already found constitutional injury at Florence, it suffices to note that Florence also does not provide email or fax access. ECF No. 55-3 ¶ 40.

Altogether, whatever challenges detainees may have with legal correspondence, none of these challenges establish a clear likelihood of success on a punitive-detention claim.

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As to Krome, River, and Laredo, Defendants’ spotty compliance with its internal policies is deeply troubling. Nor does the Court doubt that the communications challenges the detainees face injure those detainees in some way. Yet noncompliance with internal policies is not *ipso facto*

a constitutional injury. A bevy of Supreme Court and Circuit precedent instruct that the Court should be particularly wary to jump into the shoes of a jailer and constitutionalize the mundane operations of detention facilities in the name of substantive due process. In the past, the Court was willing doing to do so only in the most exceptional of circumstances—a global pandemic. As pandemic-related restrictions have waned, however, court supervision is far less necessary. As such, and for the plethora of reasons discussed above, the Court concludes that these Plaintiffs have not demonstrated a clear likelihood of success on the merits of their punitive-detention claim.

Florence, however, is in a category unto its own. Because it has effectively blocked attorney-access *in toto*, there is no constitutionally sufficient justification to avoid finding such a restriction “excessive” and, therefore, punitive.

## 2. Procedural Due Process

To achieve the same relief they seek under their punitive-detention claim, Plaintiffs advance a procedural due process claim predicated on their current and future clients’ potential bond proceedings. Am. Compl. ¶ 190. This claim is prospective—it seeks the requested relief to prevent “wrongful outcomes, delayed relief, and other errors [that] *will* occur in [their clients’] custody proceedings.” *Id.* ¶ 192. The argument appears to be that the conditions of confinement at the Facilities violate a procedural right to a full and fair custody hearing. The Court need not pause long on this argument. Because Plaintiffs do not make a facial challenge to some statutory provision of one of ICE’s many detention authorities,<sup>17</sup> Plaintiffs must identify some *particular* proceeding in which a *particular* client faces the deprivation of a liberty interest that the Constitution guarantees *that* client.<sup>18</sup> *Cf. Franklin v. District of Columbia*, 163 F.3d 625, 633

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<sup>17</sup> *E.g.*, 8 U.S.C. §§ 1225(b); 1226(a), (c); 1226a; 1231(a).

<sup>18</sup> Nor can the Court determine whether any particular client even has a liberty interest at stake. Of ICE’s many detention authorities, the Supreme Court has found only statutory detention

(D.C. Cir. 1998) (requiring showing for standing purposes). On the present pleadings, the Court cannot even begin to address that question. Plaintiffs identify no particular client and no particular proceeding. Moreover, their supporting declarations are entirely retrospective, complaining of *past* injury in *past* bond proceedings that *might* have been caused by reduced access to counsel. *E.g.*, Hidalgo Decl. ¶ 28; Lopez Decl. ¶ 20. As such, Plaintiffs do not establish a likelihood of success on their procedural due process claim.

#### 4. *Accardi*

Next, Plaintiff claims that Defendants purported failure to enforce the PBDNS across each Facility is arbitrary, capricious, or otherwise not in accordance with law in violation of the Administrative Procedure Act. More specifically, Plaintiffs press an “*Accardi*” claim, predicated upon the Supreme Court’s decision in *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). In that case, the Court held that an agency’s failure to follow their own “existing valid regulations” when coming to an agency decision may render that decision arbitrary or capricious. *Id.* at 266. This doctrine continues to be frequently invoked, including in this Circuit. *E.g.*, *Battle v. FAA*, 393 F.3d 1330, 1336 (D.C. Cir. 2005); *Steenholdt v. FAA*, 314 F.3d 633 (D.C. Cir. 2003).

Importantly, an *Accardi* claim is simply a subset of claims for relief cognizable under the APA. *See Damus v. Nielsen*, 313 F. Supp. 3d 317, 336-37 (D.D.C. 2018) (JEB). Therefore, as a threshold matter, by invoking *Accardi*, Plaintiffs must nevertheless challenge a final agency action or, to compel action not yet taken, a discrete and final action that is required by law. *See* 5 U.S.C. §§ 702, 704, 706(a); *Lujan v. Nat’l Wildlife Federation*, 497 U.S. 871, 890 (1990). In *Damus*, on

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authority permitting “detention that is indefinite and potential permanent” *per se* offensive to the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 698 (2001); *see also Jennings v. Rodriguez*, 138 S. Ct. 830, 843-44 (2018) (plurality op.) (discussing and cabining *Zadvydas* in dicta).



which Plaintiffs rely, that threshold was easily satisfied—the plaintiffs challenged ICE’s failure to enact required procedural safeguards in individual asylum adjudications. 313 F. Supp. 3d at 338. Indeed, most every case Plaintiff cites in support of its argument that the APA provides a cause of action to challenge systemic failures to follow detention standards involved instead a discrete agency action in which the agency adjudicates the rights or liabilities of a particular party.<sup>19</sup> Others either cut against their argument or are inapposite. *E.g.*, *O’Donnell v. USAID*, Civ. A. No. 18-3126 (TNM), 2019 WL 3745069, at \*3 (D.D.C. July 1, 2019) (not involving *Accardi*, particular statute did not impose mandatory duty on USAID to develop and release “Country Development Cooperation Strategies”).

The only truly apposite case on which Plaintiff relies is (nonbinding) *Torres*, discussed in part above, in which that court found that ICE’s failure to implement PBNDS policies was a “final agency action” “unlawfully withheld” under 5 U.S.C. § 706(a) under the facts alleged in the operative complaint. *See* 411 F. Supp. 3d at 1068-69. *Torres*, however, relied on a *specific* and deliberate decision not to enforce particular PBNDS provisions *as a rule*. *Id.* at 1068. This case differs in two critical respects. First, Plaintiffs challenge *each* instance of noncompliance as collectively actionable under the APA. *See* Mot. at 35. Second, the agency reports in the record actually direct application of the PBNDS; they do not make a concerted, final decision that any one Facility need not comply. *See generally* ECF Nos. 56-10, 56-11, 56-12, 57-1. When considering relevant precedent, these distinctions are dispositive.

Whether an agency’s action is “final” depends on: (1) whether it “consummat[es] [] the agency’s decisionmaking process” and (2) whether it is “one by which rights or obligations have

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<sup>19</sup> *E.g.*, *Aracely, R. v. Nielsen*, 319 F. Supp. 3d 110, 151 (D.D.C. 2018) (parole requests for asylum seekers); *Moghaddam v. Pompeo*, 424 F. Supp. 3d 104, 120 (D.D.C. 2020) (CKK) (visa adjudication).

been determined, or from which legal consequences flow.” *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997). This Hornbook test envisions, of course, either adjudication or rulemaking. *See id.* at 177-78. Although other district courts have morphed general practices into an action cognizable under the APA, *e.g.*, *Amadei v. Nielsen*, 348 F. Supp. 3d 145, 166 (E.D.N.Y. 2018), it is the law in this jurisdiction that “an on-going program or policy is not, in itself, a ‘final agency action’ under the APA,” *Cobell v. Norton*, 240 F.3d 1081, 1095 (D.C. Cir. 2001). Rather, a *discrete* and *final* agency action is required, regardless of whether a plaintiff seeks to set aside an agency action or compel one. *See Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 62-63 (2004).

This sensible requirement reflects the challenge of, as Plaintiffs would have the Court do here, reviewing in one fell swoop thousands of individual failures to comply with a particular agency policy in which each individual failure does not itself fix particular legal consequences, particularly where the specifics of those actions may change over time. *See, e.g.*, *C.B.G. v. Wolf*, 464 F. Supp. 3d 174, 225 (D.D.C. 2020) (CRC) (ICE’s alleged failures to implement certain COVID policies are various detention facilities were not a final agency action); *Nat’l Immigration Project of Nat’l Lawyers Guild v. EOIR*, 456 F. Supp. 3d 16, 31-32 (D.D.C. 2020) (CJN) (EOIR’s alleged failures to implement certain access-to-counsel policies were not final agency action). At bottom, monitoring four Facilities’ compliance “with the [PBNDS] in [their] day-to-day operations . . . ‘lacks the specificity requisite for agency action.’” *See C.G.B.*, 464 F. Supp. 3d at 266 (quoting *SUWA*, 542 U.S. at 66)). Therefore, the Court concludes that Plaintiffs have not demonstrated a clear likelihood of success on the merits of their *Accardi* claim.

## 5. Rehabilitation Act

Lastly, Plaintiffs FIRRP and AIJ advance a Rehabilitation Act claim on behalf of their clients. Because the Court grants the same relief on FIRRP’s punitive-detention claim as it would

on FIRRPA's Rehabilitation Act claim, it does not proceed to the merits of that claim here. AIJ, however, does not show clear likelihood of success on the merits of *its* Rehabilitation Act claim.

As a threshold matter, Defendants argue that AIJ lacks statutory standing to advance a Rehabilitation Act claim on behalf of its clients, an argument to which Plaintiffs do not respond. Unlike some other statutes, however, the Rehabilitation Act extends a cause of action to a broad class of putative plaintiffs: "any person aggrieved by any act or failure" constituting discrimination. 29 U.S.C. § 794(a)(2). At least two federal Courts of Appeals have held that, at the very least, any entity that provides services to disabled individuals protected by the Rehabilitation Act has standing to challenge discrimination against those individuals so long as such an entity is also injured. *See, e.g., Addiction Specialists, Inc. v. Township of Hampton*, 411 F.3d 399, 406 (3d Cir. 2005) *abrogation in irrelevant part recognized by Rufo v. Fox*, 2022 WL 16646689 (3d Cir. Nov. 3, 2022) (unpublished); *Innovative Health Sys., Inc. v. City of White Plains*, 117 F.3d 37, 46-47 (2d Cir. 1997). For its part, the D.C. Circuit has reached the same outcome as to near identical language in Title VII, extending a cause of action to "any 'person claiming to be aggrieved by' and unlawful employment practice." *Fair Empl. Council of Greater Wash., Inc. v. BMC Mtg., Inc.*, 28 F.3d 1268, 1278 (1994). Because any injury to the attorney-client relationship arising from actions proscribed by the Rehabilitation Act necessarily injures AIJ *qua* attorney as well, the Court concludes that AIJ has shown a clear likelihood that it maintains statutory standing to advance a Rehabilitation Act claim on behalf of its clients.

AIJ has not made such a showing on the merits of its Rehabilitation Act claim, however. AIJ alleges that it currently has four disabled clients. ECF No. 55-3 ¶ 45. Three of these clients have a "severe mental illness" for which they "are actively receiving psychiatric treatment," although it is unclear *what* severe mental illness each client has or *which kind* of treatment each

client is receiving. It appears one of these four clients is also blind. *Id.* ¶ 55. Plaintiffs’ sole medical declaration, totaling fewer than seven pages, includes no medical details whatsoever on any of Plaintiffs’ clients. *See generally* ECF No. 55-11.

To succeed on its third-party Rehabilitation Act claim, AIJ must show that (1) one or more of its four purportedly disabled clients are “disabled” within the meaning of the Rehabilitation Act; (2) one or more of its four purportedly disabled clients are “otherwise qualified” for a particular program or activity; (3) one or more of its four purportedly disabled clients were “excluded from[] or denied the benefit of” that program or activity; and (4) “the program or activity is carried out by a federal executive agency or with federal funds.” *See Am. Council of the Blind v. Paulson*, 525 F.3d 1256, 1266 (D.C. Cir. 2008). Rehabilitation Act claims are particularly “fact-intensive” and require a searching inquiry into the nature of a plaintiff’s disability and the adequacy of proposed accommodations. *See, e.g., Solomon v. Vilsack*, 763 F.3d 1, 10 (D.C. Cir. 2014); *Brown v. District of Columbia*, 928 F.3d 1070, 1090 (D.C. Cir. 2019) (Wilkins, J., concurring).

Unlike in *SPLC*, which featured declarations from individual clients, and *Torres*, in which detainees themselves brought their own Rehabilitation Act claim, nowhere in Plaintiffs’ near 900 pages of briefing is there a declaration from any client or doctor describing a particular client’s purported disability. The Court cannot begin to address a Rehabilitation Act claim on the merits without any information on any of: the specific identity of any clients’ disabilities, how disabling their respective conditions are, the details of prior requests for accommodation(s), and the efforts (if any) by Krome to provide any such requested accommodation(s). At most, AIJ’s sole declaration offers some hints as to these details, but nothing more. As such, the Court concludes that AIJ has not demonstrated a clear likelihood of success on the merits of its Rehabilitation Act claim.

### E. Irreparable Harm

Having addressed on the merits each of the claims Plaintiffs advanced in their pending Motion, the Court turns to the question of irreparable harm. To warrant preliminary relief, both the United States Supreme Court and the D.C. Circuit have emphasized that a movant must show at least some likelihood of irreparable harm in the absence of an injunction. *See Winter*, 555 U.S. at 22 (holding that plaintiff must “demonstrate that irreparable injury is likely in the absence of an injunction,” and not mere “possibility”); *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995) (concluding that plaintiff must demonstrate “at least ‘some injury’” for a preliminary injunction to issue because “the basis of injunctive relief in federal courts has always been irreparable harm” (first quoting *Population Inst. V. McPherson*, 797 F.2d 1062, 1078 (D.C. Cir. 1986); then quoting *Sampson v. Murray*, 415 U.S. 61, 68 (1974))). This is because a preliminary injunction “ordinarily is sought to preserve the status quo pending the resolution of the underlying litigation . . . a preliminary injunction that would change the status quo is an even more extraordinary remedy.” *Abdullah v. Bush*, 945 F. Supp. 2d 64, 67 (D.D.C. 2013), *aff’d sub nom. Abdullah v. Obama*, 753 F.3d 193 (D.C. Cir. 2014) (citations omitted).<sup>20</sup>

Because Plaintiff FIRRP has demonstrated a likelihood of success on the merits of its punitive-detention claim, it has shown irreparable injury. *Mills v. District of Columbia*, 571 F.3d 1304, 1312 (D.C. Cir. 2009) (“It has long been established that the loss of constitutional freedoms, ‘for even minimal periods of time, unquestionably constitutes irreparable injury.’” (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion))). The Court need dwell no further on the

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<sup>20</sup> Defendants insist that Plaintiffs’ Motion is therefore subject to an even higher standard it seeks to alter the status quo. Not in this Circuit, which has “rejected any distinction between a mandatory and prohibitory injunction.” *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 7 (D.C. Cir. 2016).

question.

As to the remaining Plaintiffs, however, because none of them has demonstrated a clear likelihood of success on the merits in itself there is insufficient support for a finding of irreparable harm. More importantly, Plaintiffs do not identify any *specific* harm that will *certainly* accrue absent this Court's intervention. *See Mexichem Specialty Resins, Inc. v. EPA*, 787 F.3d 544, 55 (D.C. Cir. 2015) (irreparable harm requires harm "of such *imminence* that there is a clear and present need for equitable relief" (emphasis original)). They identify no proceeding, no imminent deportation, no life-threatening disease, or any other interest that is under immediate threat. *Cf. Church v. Biden*, 573 F. Supp. 3d 118, 139-40 (D.D.C. 2021) (in challenge to vaccine mandate, no irreparable harm where even employment termination was not *certain* to occur). As such, no Plaintiff but FIRRP has demonstrated irreparable harm.

#### **F. Balance of the Equities**

"The final two factors the Court must consider when deciding whether to grant a preliminary injunction are the balance of harms and the public interest." *Sierra Club v. U.S. Army Corps of Eng'rs*, 990 F. Supp. 2d 9, 41 (D.D.C. 2013). Where, as here, the government is a party to the litigation, these two factors merge and are "one and the same, because the government's interest is the public's interest." *Pursuing Am.'s Greatness v. FEC*, 831 F.3d 500, 511 (D.C. Cir. 2016). "Although allowing challenged conduct to persist certainly may be harmful to a plaintiff and the public, harm can also flow from enjoining an activity, and the public may benefit most from permitting it to continue." *Sierra Club*, 990 F. Supp. 2d at 41. Therefore, when "balanc[ing] the competing claims of injury," the Court must "consider the effect on each party of the granting or withholding of the requested relief." *Winter v. Nat'l Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

Because “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights,” preliminary relief as to FIRRP is appropriate. *See Simms v. District of Columbia*, 872 F. Supp. 2d 90, 105 (D.D.C. 2012) (internal quotation marks omitted); *see also Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). As in *SPLC I*, the relief granted also aims to allow FIRRP’s clients access to their counsel in part so that they may continue to prosecute any actions seeking release from civil detention on medical grounds. *See Fraihat*, 2020 WL 1932570, at \*28 (“[T]here can be no public interest in exposing vulnerable persons to increased risks of severe illness and death.”).

Nevertheless, the Court is careful to stay within the bounds of only that which is commanded by the Constitution. When it comes to substantive due process in the context of detention, the Court “must be mindful that these inquiries spring from constitutional requirements and that judicial answers to them must reflect that fact rather than a court’s idea of how best to operate a detention facility.” *Bell*, 441 U.S. at 539. At the same time, “[c]ourts may not allow constitutional violations to continue simply because a remedy would involve intrusion into the realm of prison administration.” *Brown v. Plata*, 563 U.S. 493, 511 (2011). The D.C. Circuit has previously authorized injunctive relief against detention facilities, even where the injunctive relief imposes a particular set of conditions. *See Campbell v. McGruder*, 580 F.2d 521, 551-52 (D.C. Cir. 1978) (finding specific conditions not unduly intrusive because there was “no alternative if the rights of pretrial detainees are to be respected”).

Therefore, as a threshold matter, the Court goes no further than what Defendants have promulgated in their PBNDS and NDS. Moreover, to ensure that the Court orders Defendants to provide only what the Constitution guarantees and no more, the Court offers Defendants a choice. Within 60 days of the entry of the order accompanying this Memorandum Opinion, Defendants

shall ensure that Florence *either* (1) installs six private, confidential attorney-client visitation rooms in which counsel may utilize translation services and physically pass documents to and from their detainee client *or* (2) installs or transfigures a ratio of twenty-five telephones to one detainee that block all others from listening to legal calls while in progress.

#### IV. CONCLUSION

For the foregoing reasons, Plaintiffs' [55] Motion for Preliminary Injunction is **GRANTED IN PART AND DENIED IN PART**. The Motion is **DENIED** as to Plaintiffs AIJ, ISLA, RAICES, and IJC because none has shown a likelihood of success on the merits. IJC is itself **DISMISSED** as a party for lack of standing. The Motion is **GRANTED IN PART AND DENIED IN PART** as to FIRRP because they have shown a likelihood of success on the merits of their punitive-detention claim, i.e., it appears quite likely the Florence has functionally stripped detainee-clients of access to their attorneys without due justification. Because that injury is constitutional in nature, FIRRP's clients will be irreparably harmed absent preliminary relief. Finally, the public interest weighs in favor of the very limited injunctive relief imposed upon Florence.

An appropriate Order accompanies this Memorandum Opinion.

Date: February 1, 2023

/s/  
COLLEEN KOLLAR-KOTELLY  
United States District Judge



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICANS FOR IMMIGRANT JUSTICE,  
*et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY, *et al.*,  
Defendants.

Civil Action No. 22-3118 (CKK)

ORDER AND PRELIMINARY INJUNCTION  
(February 1, 2023)

For the reasons stated in the accompanying Memorandum Opinion, it is hereby

**ORDERED**, that Plaintiffs' [55] Motion for Preliminary Injunction is **GRANTED IN PART AND DENIED IN PART**. It is further

**ORDERED**, that Plaintiff Immigration Justice Campaign and all its claims are **DISMISSED** for lack of subject matter jurisdiction. It is further

**ORDERED**, that with 60 days of the entry of this Order, Defendants shall ensure that the Central Arizona Florence Correctional Complex in Florence, Arizona ("Florence"): (1) installs six private, confidential attorney-client visitation rooms in which counsel may utilize translation services and physically pass documents to and from their detainee client *or* (2) installs or transfigures a ratio of twenty-five telephones to one detainee that block all others from listening to legal calls while in progress. Whichever course Defendants choose, it shall otherwise comply with every provision of the 2019 National Detention Standards for Non-Dedicated Facilities, as published at <https://www.ice.gov/detain/detention-management/2019> as of the date of this Order. It is further

**ORDERED**, that, within ninety days of the entry of this Order, Defendants shall file a Notice with the Court with either a Certificate of Compliance certifying under oath that Florence is in compliance with the Court's Order *or* a detailed notice explaining steps taken so far and the current state of compliance at Florence. It is further

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**ORDERED**, that a security bond for the issuance of this Order is **WAIVED** *sua sponte* pursuant to Federal Rule of Civil Procedure 65(c).

**SO ORDERED.**

Date: February 1, 2023

/s/  
COLLEEN KOLLAR-KOTELLY  
United States District Judge

**From:** "Moossy, Robert (CRT)" <(b) (6)>

**To:** (b)(6), (7)(C), (7)(E) per FBI (CJISD) (FBI) (b)(6), (7)(C), (7)(E) per FBI

**Cc:** "Braden, Myesha (ODAG)" <(b) (6)>, "Christman, Michael A. (CJISD) (FBI)" (b)(6), (7)(C), (7)(E) per FBI, "Mody, Saeed (OASG)" <(b) (6)>, "Sooknanan, Sparkle (OASG)" <(b) (6)>, "Griffith, Brian D. (CJISD) (FBI)" (b)(6), (7)(C), (7)(E) per FBI, "Schubert, Scott E. (CJISD) (FBI)" (b)(6), (7)(C), (7)(E) per FBI

**Subject:** Re: ALIGNING PLANS FOR HATE CRIME STATISTICS RELEASE

**Date:** Mon, 12 Dec 2022 19:21:17 +0000

**Importance:** Normal

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Sorry, I read too fast. None of the FBI folks intend to speak? I think if you're present, it would be good to deliver a few minutes on how FBI is planning to do better next year? And disregard my ask to limit it to 2 people, I had thought all were speaking.

Sent from my iPhone

On Dec 12, 2022, at 1:18 PM, Moossy, Robert (CRT) <(b) (6)> wrote:

Could we limit it to 2 folks. And a total of 10 minutes talking points?

Sent from my iPhone

On Dec 12, 2022, at 1:14 PM, (b)(6), (7)(C), (7)(E) per FBI wrote:

FBI attendance would be the following:

AD Mike Christman  
DAD Brian Griffith  
SC Scott Schubert  
ASC (b)(6), (7)(C), (7)(E) per FBI

We had not intended to speak.

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**From:** Moossy, Robert (CRT) <(b) (6)>

**Sent:** Monday, December 12, 2022, 1:35 PM

**To:** (b)(6), (7)(C), (7)(E) per FBI (CJISD) (FBI) (b)(6), (7)(C), (7)(E) per FBI; Braden, Myesha (ODAG) (JMD) <(b) (6)>; Christman, Michael A. (CJISD) (FBI) (b)(6), (7)(C), (7)(E) per FBI

**Cc:** Mody, Saeed (OASG) (JMD) <(b) (6)>; Sooknanan, Sparkle (OASG) (JMD) <(b) (6)>; Griffith, Brian D. (CJISD) (FBI) (b)(6), (7)(C), (7)(E) per FBI; Schubert, Scott E. (CJISD) (FBI) (b)(6), (7)(C), (7)(E) per FBI; Christman, Michael A. (CJISD) (FBI) (b)(6), (7)(C), (7)(E) per FBI

**Subject:** [EXTERNAL EMAIL] - RE: ALIGNING PLANS FOR HATE CRIME STATISTICS RELEASE

This is for the meeting later today with the 10 +/- leaders of the civil rights groups? Who from FBI will join? Right now the meeting is AAG Clarke, Saeed Mody, Johnathan Smith, me.

If FBI wants to join, could we see your talking points for the meeting? Our aim was just to TB with them using the same talking points from this morning, but shorter, and answer their questions.

Invitees will be (we've added one or two other, like Maya from AAI):

- ADL—Jonathan Greenblatt ((b) (6)) and Eileen Hershenov ((b) (6))
- SPLC—Margaret Huang ((b) (6)) and Michael Lieberman ((b) (6))
- HRC—President and David Stacy ((b) (6))
- LDF—Janai Nelson ((b) (6)) and Lisa Cylar Barrett ((b) (6))
- Secure Communities—Michael Masters ((b) (6)) and Dena Weiss ((b) (6))
- Lawyer's Committee—Damon Hewitt ((b) (6)) and Arusha Gordon ((b) (6))
- Leadership Conference—Maya Wiley ((b) (6)), Jessalyn McCurdy ((b) (6)) and Nadia Aziz ((b) (6))
- Brennan Center—Michael Waldmann ((b) (6)) and Faiza Patel ((b) (6))
- MALDEF—Tom Saenz ((b) (6)) and Andrea Senteno ((b) (6))
- National Urban League—Marc Morial ((b) (6)) and Joi Chaney ((b) (6))
- NAACP—Derrick Johnson ((b) (6)) and Janette McCarthy Wallace ((b) (6))
- Sikh Coalition—Anisha Singh ((b) (6)) and Sim J. Singh Attariwala ((b) (6))
- Matthew Shepard Foundation—Judy Shepard ((b) (6))

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**From:** ((b)(6), (7)(C), (7)(E) per FBI)

**Sent:** Monday, December 12, 2022 9:11 AM

**To:** Braden, Myesha (ODAG) <((b) (6))>; Moossy, Robert (CRT) <((b) (6))>; Christman, Michael A. (CJISD) (FBI) ((b)(6), (7)(C), (7)(E) per FBI)

**Cc:** Mody, Saeed (OASG) <((b) (6))>; Sooknanan, Sparkle (OASG) <((b) (6))>; Griffith, Brian D. (CJISD) (FBI) ((b)(6), (7)(C), (7)(E) per FBI); Schubert, Scott E. (CJISD) (FBI) ((b)(6), (7)(C), (7)(E) per FBI); Christman, Michael A. (CJISD) (FBI) ((b)(6), (7)(C), (7)(E) per FBI)

**Subject:** Re: ALIGNING PLANS FOR HATE CRIME STATISTICS RELEASE

Thank you so much!

((b)(6), (7)(C))

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**From:** Braden, Myesha (ODAG) <((b) (6))>

**Sent:** Monday, December 12, 2022 8:36:33 AM

**To:** ((b)(6), (7)(C), (7)(E) per FBI) (CJISD) (FBI) ((b)(6), (7)(C), (7)(E) per FBI); Moossy, Robert (CRT) <((b) (6))>

**Cc:** Mody, Saeed (OASG) (JMD) <((b) (6))>; Sooknanan, Sparkle (OASG) (JMD)

<((b) (6))>

**Subject:** [EXTERNAL EMAIL] - Re: ALIGNING PLANS FOR HATE CRIME STATISTICS RELEASE

Hi, (b)(6), (7)(C)

CRT is having that call either tonight or tomorrow. Robert Moosy is copied here to include you in the plans.

Best,

Myesha

Sent from my iPhone

On Dec 12, 2022, at 7:34 AM, (b)(6), (7)(C), (7)(E) per FBI wrote:

Myesha

Good morning! Would it be possible for FBI/CJIS to listen in to your community call this afternoon.

Much thanks

(b)(6), (7)(C)

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**From:** Braden, Myesha (ODAG) <(b)(6)>

**Sent:** Wednesday, December 7, 2022 8:04:13 PM

**To:** Monteleone, Robby (USAE0) <(b)(6), (7)(C) per EOUSA>; Lock, Justin (CRS) (JMD)

<(b)(6)>; Moosy, Robert (CRT) <(b)(6)>; Mody, Saeed (OASG) (JMD)

<(b)(6)>; Iverson, Dena (PAO) (JMD) <(b)(6)>; Bradford, Aryele (PAO)

(JMD) <(b)(6)>; Chapman, Robert (COPS) <(b)(6)>; Smith, Johnathan

(CRT) <(b)(6)>; Piquero, Alex (OJP) <(b)(6)>; (b)(6), (7)(C), (7)(E) per FBI (CJISD) (FBI)

(b)(6), (7)(C), (7)(E) per FBI (CJISD) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>; Tapp, Aaron G. (CID) (FBI)

(b)(6), (7)(C), (7)(E) per FBI

**Cc:** Wong, Norman (USAE0) <(b)(6), (7)(C) per EOUSA>; Monteiro, Paul (CRS) (JMD)

<(b)(6)>; Cohen, Brent (OJP) <(b)(6)>; Pietranton, Kelsey (PAO) (JMD)

<(b)(6)>; Cochran, Shaylyn (CRT) <(b)(6)>; Plozai, Jennifer (OJP)

<(b)(6)>; Rothrock, R. Joseph (CID) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>; Christman, Michael A. (CJISD)

(FBI) <(b)(6), (7)(C), (7)(E) per FBI>; Schubert, Scott E. (CJISD) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>

(CJISD) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>; Griffith, Brian D. (CJISD) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>; Goodwater, Douglas M.

(OPA) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>; Yoon, Hayne (OJP) <(b)(6)>

**Subject:** [EXTERNAL EMAIL] - ALIGNING PLANS FOR HATE CRIME STATISTICS RELEASE

Hi, Everyone

Below, please see a summary of yesterday's discussion. If I have missed anything or you have updates, please let everyone know.

- FBI conducted a Beta release on Monday that gave 5 organizations (the Leadership Conference, American Jewish Committee, ADL, SPLC, Sikh Coalition, and the Arab American Institute) 24-hour access to the 2021 hate crime data.
- FBI and OPA are coordinating a press call at 8:30am on 12/12/23 before the data is released. FBI-CJIS, FBI-CID and someone from either OASG or CRT will participate in the call.
- FBI will publish a press release as the data is made public, targeting DOJ regulars and outlets that have made specific outreach concerning the hate crime data.
- FBI CJIS is preparing FAQs that will be linked to the web-site data. (They will share the FAQs with OPA, CRT, EOUSA, and OJP.)

- CRT will host a call with 10 or so civil rights stakeholders either the evening of the data release or the morning after.
- OJP, within the coming days/weeks, will publish a blog post outlining upcoming hate crime grant awards under the Till and Shepherd/Byrd programs.

One thing not discussed, but I believe I heard during last week's hate crime initiative meeting was that CRT/CRS will post a link to the data on the Department's hate crimes web-portal. Can someone verify?

Thanks,

Myesha

Myesha Braden  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
United States Department of Justice

(b) (6)

**From:** "Hannah Bundy (she/her)" <(b) (6)>

**To:** "Braden, Myesha (ODAG)" <(b) (6)>

**Cc:** "Nadia Aziz (she/her)" <(b) (6)>

**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

**Date:** Sat, 10 Dec 2022 18:26:12 +0000

**Importance:** Normal

**Inline-Images:** image001.png

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I'm so happy to hear that! Have a wonderful weekend.

**Hannah Bundy (she/her/hers)**

**Executive Associate and Special Liaison to  
the President and CEO**

The Leadership Conference on Civil and Human Rights

The Leadership Conference Education Fund

[www.civilrights.org](http://www.civilrights.org)

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**From:** Braden, Myesha (ODAG) <(b) (6)>

**Sent:** Friday, December 9, 2022 3:30 PM

**To:** Hannah Bundy (she/her) <(b) (6)>

**Cc:** Nadia Aziz (she/her) <(b) (6)>

**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hannah,

Thanks so much for helping to organize the meeting. The conversation was substantive, and I think the DAG, ASG, and AAG were very pleased.

Happy Holidays!

Myesha

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**From:** Hannah Bundy (she/her) <(b) (6)>

**Sent:** Friday, December 9, 2022 3:27 PM

**To:** Braden, Myesha (ODAG) <(b) (6)>

**Cc:** Nadia Aziz (she/her) <(b) (6)>

**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Thank you, Myesha! We know you have a lot on your plate, and we are so appreciative of all your help.

Happy holidays to you and your colleagues.



**Hannah Bundy (she/her/hers)**

**Executive Associate and Special Liaison to  
the President and CEO**

The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
[www.civilrights.org](http://www.civilrights.org)

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**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Friday, December 9, 2022 10:39 AM  
**To:** Hannah Bundy (she/her) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** Re: [EXTERNAL] RE: Scheduling next DAG Quarterly

Thank you!

Sent from my iPhone

On Dec 9, 2022, at 10:37 AM, Hannah Bundy (she/her) <(b) (6)> wrote:

Hi Myesha,

Thanks for the flag. I have no idea why that would be the case as I've mentioned to folks it's a virtual meeting, but I'll reiterate that now.

Thank you,  
Hannah

Get [Outlook for iOS](#)

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**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Friday, December 9, 2022 10:34:49 AM  
**To:** Hannah Bundy (she/her) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** Re: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi, Hannah

The ASG seems to think some people are coming in person today? Any idea why?

Please advise. . .

Best,

Myesha



Sent from my iPhone

On Dec 8, 2022, at 7:20 PM, Hannah Bundy (she/her) <(b) (6)> wrote:

Got it, thanks! And attached is the most updated list of RSVPs. Below are the folks who were added since I sent the list earlier this week.

Marita Etcubanez	Senior Director of Strategic Initiatives	Asian Americans Advancing Justice (AAJC)	(b) (6)
Lisa Cylar Barrett	Director of Policy and Director of Washington D.C. Office	NAACP LDF	(b) (6)
Arthur Ago	Director of Criminal Justice Project	Lawyers' Committee for Civil Rights Under Law	(b) (6)
Caleb Jackson	Policy Counsel	Lawyers' Committee for Civil Rights Under Law	(b) (6)

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**Hannah Bundy (she/her/hers)**  
**Executive Associate and Special Liaison to**  
**the President and CEO**  
The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
[www.civilrights.org](http://www.civilrights.org)

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**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Thursday, December 8, 2022 6:25 PM  
**To:** Hannah Bundy (she/her) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi, Hannah

See slight modification of the agenda attached.

Best,

Myesha

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**From:** Hannah Bundy (she/her) <(b) (6)>  
**Sent:** Thursday, December 8, 2022 5:46 PM  
23-cv-1166 - 1239

**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi Myesha,

Following up with the most updated RSVP list and agenda. The only addition to the RSVP list is Arthur Ago, if I have any other additions, I'll make sure to send that to you ASAP.

And this is the one addition to the agenda “*Confronting White Supremacist Violence: An Effective and Inclusive Path Forward Policy Paper*”.

Thank you kindly,  
Hannah

<im  
age  
001  
.pn  
g> **Hannah Bundy (she/her/hers)**  
**Executive Associate and Special Liaison to**  
**the President and CEO**  
The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
[www.civilrights.org](http://www.civilrights.org)

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**From:** Hannah Bundy (she/her)  
**Sent:** Thursday, December 8, 2022 4:27 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi Myesha,

Apologies for the delay, my response to you didn't send!

Yes, we will plan to have Maya moderate the discussion.

The list of updated and final RSVPs is attached. The highlighted names are the only two that have been added since I last sent the list to you.

Below is the most updated agenda. I will send you a separate document of the agenda later today, but wanted you to have this in the meantime. Please note that the names listed are the leads of each topic, but will not necessarily be the only people to speak on the topics.

Kindly,  
Hannah

## Agenda

- I. **Opening - DAG**
- II. **Introduction** - Maya Wiley (The Leadership Conference) (5 minutes) (Principal)
- III. **Increase in Antisemitism** - Rabbi Jonah Pesner (RAC) (5 minutes) (Principal)
- IV. **Increase in Anti-LGBTQ+ Hate** - David Stacy (HRC) (5 minutes)
- V. **Revisions to the 2014 Profiling Guidance** - Hina Shamsi (ACLU) (15 minutes)
- VI. **National Security and Elections** - Lisa Cylar Barrett (NAACP LDF) (5 minutes)
- VII. **Hate Crimes Data Release** - Michael Lieberman (Southern Poverty Law Center) (5 minutes)
- VIII. **White Supremacy in Law Enforcement** - Arthur Ago (Lawyers' Committee for Civil Rights Under Law) (5 minutes)

<img age 001 .png> **Hannah Bundy (she/her/hers)**  
**Executive Associate and Special Liaison to the President and CEO**  
The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
[www.civilrights.org](http://www.civilrights.org)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Thursday, December 8, 2022 1:11 PM  
**To:** Hannah Bundy (she/her) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi, Hannah

Checking back on three issues:

1. Will Maya moderate the discussion?
2. Are there any updates to the attendee list?
3. Are there any additional topics of discussion beyond those provided by Nadia:
  - a. Election Security
  - b. Anti-LGBTQI Violence
  - c. Hate Crime data
  - d. DT Categories
  - e. Racial Profiling Guidance

Best,

Myesha

23-cv-1166 - 1241

---

**From:** Hannah Bundy (she/her) <(b) (6)>  
**Sent:** Monday, December 5, 2022 7:03 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi Myesha,

I just wanted to send you the RSVP list as of today. There might be some additions tomorrow, but I wanted to make sure you have this information sooner rather than later.

We will also be sending the agenda tomorrow or Wednesday at the latest.

Thank you kindly,  
Hannah

<img alt="Hannah Bundy's profile picture" data-bbox="62 431 100 460"/>  
age  
001  
.pn  
g>  
**Hannah Bundy (she/her/hers)**  
**Executive Associate and Special Liaison to**  
**the President and CEO**  
The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
[www.civilrights.org](http://www.civilrights.org)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Monday, November 28, 2022 12:33 PM  
**To:** Hannah Bundy (she/her) <(b) (6)>  
**Cc:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** Re: [EXTERNAL] RE: Scheduling next DAG Quarterly

Hi, Hannah

Friday, December 9 from 11:30 - 12:30 works best for the DAG and the ASG. Please let me know if that works for the groups.

Best,

Myesha

Sent from my iPhone

On Nov 23, 2022, at 10:26 AM, Hannah Bundy (she/her) <(b) (6)> wrote:

Thank you, Nadia! Myesha, if you can let me know the best times on your end for the weeks of December 5 and 12 that would be great!

We will work around the DAG's schedule as much as possible, especially since I'm sure this is such a busy time.

I look forward to hearing from you!

<img alt="Hannah Bundy (she/her/hers) Executive Office Associate" data-bbox="72 275 102 355"/> **Hannah Bundy (she/her/hers)**  
**Executive Office Associate**  
The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
[www.civilrights.org](http://www.civilrights.org)

---

**From:** Nadia Aziz (she/her) <(b) (6)>  
**Sent:** Wednesday, November 23, 2022 9:29 AM  
**To:** (b)(6) Myesha Braden ; Hannah Bundy (she/her) <(b) (6)>  
**Subject:** Scheduling next DAG Quarterly

Hi Myesha – connecting you directly with Hannah Bundy, here. Hannah is Maya's assistant. This will streamline the process on our end.

Would it be possible to have the meeting the week of December 12?

Nadia

<image007.png>

**Nadia N. Aziz (she/her)**  
**Senior Program Director, Fighting Hate + Bias**

The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund  
1620 L Street NW, Suite 1100, Washington, D.C. 20036  
**P:** (b) (6) **M:** (b) (6)  
[civilrights.org](http://civilrights.org) | [leadershipconferenceeducationfund.org](http://leadershipconferenceeducationfund.org)

[<image008.png>](#)

[<image009.png>](#)

[<image010.png>](#)

[<image011.png>](#)

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<RSVPS\_ODAG Meeting\_12092022.xlsx>

Name	Title	Organization	Email	RSVP
Chris Anders	Deputy Political Director and Federal Policy Director	ACLU	(b) (6)	Attending
Hina Shamsi	Director, ACLU National Security Project	ACLU	(b) (6)	Attending
Jason Kimelman-Block	Washington Director	Bend the Arc	(b) (6)	Attending
Faiza Patel	Senior Director, Liberty and National Security Program	Brennan Center for Justice	(b) (6)	Attending
Kirstin Dunham	Senior Legislative Counsel	Brennan Center for Justice	(b) (6)	Attending
David Stacy	Government Affairs Director	Human Rights Campaign	(b) (6)	Attending
Laura Pitter	Deputy Director, US Program	Human Rights Watch	(b) (6)	Attending
Sumayyah Waheed	Senior Policy Counsel	Muslim Advocates	(b) (6)	Attending
Jonah Pesner	Director	Religious Action Center	(b) (6)	Attending
Michael Lieberman	Senior Policy Counsel, Hate & Extremism	Southern Poverty Law Center	(b) (6)	Attending
Maya Wiley	President and CEO	The Leadership Conference on Civil and Human Rights	(b) (6)	Attending
Nahid Paiman	Senior Policy Assistant	The Leadership Conference on Civil and Human Rights	(b) (6)	Attending
Jesselyn McCurdy	Executive Vice President for Government Affairs	The Leadership Conference on Civil and Human Rights	(b) (6)	Attending
Chanel Sherrod	Program Manager, Government Affairs	The Leadership Conference on Civil and Human Rights	(b) (6)	Attending

Marita Etcubanez	Senior Director of Strategic Initiatives	Asian Americans Advancing Justice (AAJC)	(b) (6)	
Lisa Cylar Barrett	Director of Policy and Director of Washington D.C. Office	NAACP LDF	(b) (6)	
Arthur Ago	Director of Criminal Justice Project	Lawyers' Committee for Civil Rights Under Law	(b) (6)	
Caleb Jackson	Policy Counsel	Lawyers' Committee for Civil Rights Under Law	(b) (6)	



**From:** "Thomas, Tina M. (ODAG)" <(b) (6)>  
**To:** "Braden, Myesha (ODAG)" <(b) (6)>, "Pietranton, Kelsey (PAO)" <(b) (6)>, "Bruck, Andrew (ODAG)" <(b) (6)>, "Bradford, Aryele (PAO)" <(b) (6)>  
**Cc:** "Chandler, Adam (ODAG)" <(b) (6)>

**Subject:** RE: Hate crime #s

**Date:** Fri, 09 Dec 2022 17:54:59 -0000

**Importance:** Normal

---

Weekly briefer is fine! Thanks.

**Tina M. Thomas**

Deputy Chief of Staff and Counsel  
Office of the Deputy Attorney General  
U.S. Department of Justice  
(o)(b) (6) | (m)(b) (6)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Friday, December 9, 2022 12:54 PM  
**To:** Pietranton, Kelsey (PAO) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>; Bradford, Aryele (PAO) <(b) (6)>  
**Cc:** Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Hate crime #s

I was going to include this info in the weekly briefer. Do you think should would prefer the email?

---

**From:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Sent:** Friday, December 9, 2022 12:52 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>; Bradford, Aryele (PAO) <(b) (6)>  
**Cc:** Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Hate crime #s

Plus Aryele who has lead on this for OPA. Myesha, re: the ask from civil rights stakeholder meeting, we should discuss this with Aryele. I will defer to her and Anthony but have thoughts. Happy to sync up this afternoon.

Re: ticktock, fine to include the below email for the DAG but note the timing of release will slide so that it doesn't post while she's speaking.

Thanks!

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Friday, December 9, 2022 12:47 PM  
**To:** Thomas, Tina M. (ODAG) <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>; Pietranton, Kelsey (PAO) <(b) (6)>  
**Cc:** Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Hate crime #s

I should also note that during today's Civil Rights Stakeholder meeting, they asked that either the AG, DAG, or ASG make a statement explaining why the data is incomplete and what DOJ is doing to improve reporting.

Kelsey, if not a statement on the day of release, perhaps this is something Lisa could mention during the Nakamura interview?

---

**From:** Braden, Myesha (ODAG)

**Sent:** Friday, December 9, 2022 12:43 PM

**To:** Thomas, Tina M. (ODAG) <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>;

Pietranton, Kelsey (PAO) <(b) (6)>

**Cc:** Chandler, Adam (ODAG) <(b) (6)>

**Subject:** RE: Hate crime #s

Hi, Tina

The release is Monday and Marshall and Kelsey are tracking. I previously gave them the following info:

- FBI conducted a Beta release on Monday that gave 5 organizations (the Leadership Conference, American Jewish Committee, ADL, SPLC, Sikh Coalition, and the Arab American Institute) 24-hour access to the 2021 hate crime data.
- FBI and OPA are coordinating a press call at 8:30am on 12/12/23 before the data is released. FBI-CJIS, FBI-CID and someone from either OASG or CRT will participate in the call.
- FBI will publish a press release as the data is made public, targeting DOJ regulars and outlets that have made specific outreach concerning the hate crime data.
- FBI CJIS is preparing FAQs that will be linked to the web-site data. (They will share the FAQs with OPA, CRT, EOUSA, and OJP.)
- CRT will host a call with 10 or so civil rights stakeholders either the evening of the data release or the morning after.
- OJP, within the coming days/weeks, will publish a blog post outlining upcoming hate crime grant awards under the Till and Shepherd/Byrd programs.
- **NEW: CRT/CRS will post a link to the data on the Department's hate crimes web-portal.**

Best,

Myesha

---

**From:** Thomas, Tina M. (ODAG) <(b) (6)>

**Sent:** Friday, December 9, 2022 11:53 AM

**To:** Braden, Myesha (ODAG) <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>;

Pietranton, Kelsey (PAO) <(b) (6)>

**Cc:** Chandler, Adam (ODAG) <(b) (6)>

**Subject:** Hate crime #s

At the ASG meeting this week, the team referred to a possible release of hate crime #s. They mentioned that this release could happen as early as Monday. The DAG asked for a proposal and plan, which I *believe* OASG is working on.

Are any of you tracking? Any idea whether the release would include a role for the DAG?

Thanks,  
Tina

**Tina M. Thomas**

Deputy Chief of Staff and Counsel  
Office of the Deputy Attorney General  
U.S. Department of Justice  
(o)(b) (6) | (m)(b) (6)

**From:** "Schedule, DAG (SMO)" </O=EXCHANGELABS/(b) (6)>

>

**To:** "Mody, Saeed (OASG)" <(b) (6)>

**Subject:** Quarterly Civil Rights Meeting

**Date:** Fri, 09 Dec 2022 16:18:09 -0000

**Importance:** Normal

**Attachments:** unnamed

---

POC: Myesha Braden

Attendees:

ODAG: DAG Monaco, Marshall Miller, Myesha Braden

OASG: Vanita Gupta, Sparkle Sooknanan, Saeed Mody

CRT: Kristen Clarke, Shaylyn Cochran

ACLU: Chris Anders, Hina Shamsi

Bend the Arc: Jason Kimelman-Block

Brennan Center: Faiza Patel, Kirstin Dunham

HRC: David Stacy

HRW: Laura Pitter

Muslim Advocates: Sumayyah Waheed

RAC: Jonah Pesner

SPLC: Michael Lieberman

Leadership Conference: Maya Wiley, Nahid Paiman, Jesselyn McCurdy, Chanel Sherrod

**Note: This meeting is limited to the invited attendees only. You are not authorized to forward this invitation. If you believe other individuals should be included, please contact the ODAG Front Office.**

-- Do not delete or change any of the following text. --

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Need help? Go to <https://help.webex.com>

**From:** "Schedule, DAG (SMO)" </o=ExchangeLabs (b) (6)>

>

**To:** "Berger, Christine (OAG)" <(b) (6)>

**Subject:** FW: HOLD: Quarterly Civil Rights Meeting

**Date:** Fri, 09 Dec 2022 15:21:13 -0000

**Importance:** Normal

**Attachments:** unnamed

---

-----Original Appointment-----

**From:** Schedule, DAG (SMO) <DAG.Schedule@usdoj.gov>

**Sent:** Friday, December 9, 2022 9:54 AM

**To:** Schedule, DAG (SMO); Miller, Marshall (ODAG); Braden, Myesha (ODAG); Gupta, Vanita (OASG); Sooknanan, Sparkle (OASG); Cochran, Shaylyn (CRT); (b)(6) Chris Anders; Hina Shamsi; (b)(6) Jason Kimelman-Block; (b)(6) Faiza Patel; (b)(6) Kirstin Dunham; (b)(6) David Stacy; (b)(6) Laura Pitter; (b)(6) Sumayyah Waheed; (b)(6) Jonah Pesner; (b)(6) Michael Lieberman; (b)(6) Maya Wiley; (b)(6) Nahid Paiman; (b)(6) Jesselyn McCurdy; (b)(6) Chanel Sherrod

**Cc:** Henthorne, Betsy (OASG); RFK-SurfaceHub2 (JMD); Thomas, Tina M. (ODAG); Clarke, Kristen (CRT); Watson, Theresa (OAG); Otus86, AG (OAG)

**Subject:** HOLD: Quarterly Civil Rights Meeting

**When:** Friday, December 9, 2022 11:30 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** DAG Conference Room, 4111; WebEx Meeting

Duplicative Information - See Document ID 23-cv-1166 - 1282

**From:** "Schedule, DAG (SMO)" </o=ExchangeLabs (b) (6)>

>

**To:** "Klapper, Matthew B. (OAG)" <(b) (6)>

**Subject:** FW: HOLD: Quarterly Civil Rights Meeting

**Date:** Fri, 09 Dec 2022 15:20:58 -0000

**Importance:** Normal

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1305

**From:** "Berger, Christine (OAG)" <(b) (6)>

**To:** "Gupta, Vanita (OASG)" <(b) (6)>

**Subject:** RE: Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

**Date:** Fri, 09 Dec 2022 15:09:42 -0000

**Importance:** Normal

---

Thank you!

---

**From:** Gupta, Vanita (OASG) <(b) (6)>

**Sent:** Friday, December 9, 2022 10:05 AM

**To:** Berger, Christine (OAG) <(b) (6)>

**Subject:** FW: Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

Just got this

---

**From:** Mody, Saeed (OASG) <(b) (6)>

**Sent:** Friday, December 9, 2022 10:05 AM

**To:** Gupta, Vanita (OASG) <(b) (6)>; Henthorne, Betsy (OASG) <(b) (6)>

**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Harwood, Stacy (OAG) <(b) (6)>

**Subject:** RE: Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

### AUDIENCE

The following organizations will participate in the meeting:

<b>American Civil Liberties Union</b> Hina Shamsi – Director, National Security Project Chris Anders - Deputy Political Director and Federal Policy Director	<b>Human Rights Watch</b> Laura Pitter – Deputy Director, U.S. Program
<b>Muslim Advocates</b> Sumayyah Waheed, Senior Policy Counsel	<b>Lawyers' Committee for Civil Rights Under Law</b> Arthur Ago – Director of the Criminal Justice Project
<b>Southern Poverty Law Center</b> Michael Lieberman - Senior Policy Counsel, Hate & Extremism	<b>Leadership Conference on Civil &amp; Human Rights</b> Maya Wiley - President & CEO Jessalyn McCurdy - Executive Vice President, Government Affairs Nahid Paiman – Senior Policy Assistant Chanel Sherrod - Program Manager, Government Affairs
<b>Bend the Arc</b> Rabbi Jason Kimelman-Block - Washington Director	<b>NAACP Legal Defense &amp; Education Fund</b> Lisa Cylar Barrett - Director of Policy and Director of Washington D.C. Office
<b>Brennan Center for Justice</b> Faiza Patel - Director, Liberty and National Security Program	<b>Religious Action Center for Reform Judaism</b> Rabbi Jonah Pesner - Director

Kirstin Dunham, Senior Legislative Counsel	
<b>Human Rights Campaign</b> David Stacy – Government Affairs Director	<b>Asian Americans Advancing Justice</b> Marita Etcubanez - Senior Director of Strategic Initiatives



**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**Cc:** "Watson, Theresa (OAG)" <(b) (6)>, "Otus86, AG (OAG)" <(b) (6)>

**Subject:** Quarterly Civil Rights Meeting

**Date:** Fri, 9 Dec 2022 14:54:02 +0000

**Importance:** Normal

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1282



**From:** "Gupta, Vanita (OASG)" <(b) (6)>

**To:** "Miller, Marshall (ODAG)" <(b) (6)>, (b)(6) Lisa Monaco  
<(b)(6) Lisa Monaco>

**Subject:** FW: Hate Crimes Data Rollout Plan

**Date:** Fri, 9 Dec 2022 03:21:05 +0000

**Importance:** Normal

---

I have a few questions about this but FYI for now.

---

**From:** Iverson, Dena (PAO) <(b) (6)>

**Sent:** Thursday, December 8, 2022 10:14 PM

**To:** Gupta, Vanita (OASG) <(b) (6)>

**Cc:** Mody, Saeed (OASG) <(b) (6)>; Henthorne, Betsy (OASG) <(b) (6)>

**Subject:** Hate Crimes Data Rollout Plan

Hi Vanita,

Below is the rollout plan as it currently stands for the hate crimes data release on Monday. Yesterday ODAG, OASG, FBI, BJS, CRT, EOUSA, and OPA, met and discussed the details of the rollout, some of this such as the Beta release has already happened. Today FBI, CRT and their respective OPAs had a prep call for the backgrounder.

- FBI conducted a Beta release on Monday that gave 5 organizations (the Leadership Conference, American Jewish Committee, ADL, SPLC, Sikh Coalition, and the Arab American Institute) 24-hour access to the 2021 hate crime data.
- FBI is coordinating with OPA to conduct a press call at 8:30am on 12/12/23 before the data is released. FBI-CJIS, FBI-CID and CRT (Moossy) will be on the call on background to give an overview of the data and hate crimes prosecutions.
- FBI will publish a press release as the data is made public, targeting DOJ regulars and outlets that have made specific outreach concerning the hate crime data.
- DOJ OPA is considering a short PR following the FBI release on our hate crimes work that will mostly be information from our hate crimes fact sheet and may (b) (5).
- OPA may (b) (5)
- FBI CJIS is preparing FAQs that will be linked to the web-site data. (They will share the FAQs with OPA, CRT, EOUSA, and OJP)
- CRT will host a call with 10 or so civil rights stakeholders *Exact timing TBD, my recommendation is it happens shortly after data is released.*
- OJP within the coming days/weeks, OJP will publish a blog post outlining upcoming hate crime grant awards under the Till and Shepherd/Byrd programs.
- For awareness, CRT has two guilty pleas to hate crimes – one racially motivated threats case and one arson of an Islamic center – we will make sure to flag those for everyone writing about the data so they have context on our work.

FBI and CRT are revising their TPs following the prep call for the backgrounder today. We will be able to share those updated versions in the morning but I think they are in good shape.

Some additional background from Alex at BJS on the data:

- The hate crime data is incident-based and not estimated like the crime data released in October. Therefore, no estimates were produced concerning this data and, in any case, doing so would have been very challenging.

- The FBI and BJS are researching how hate crimes are defined, tracked, measured, and coded across states to determine if reporting is consistent from place to place. As more agencies submit their crime data through NIBRS, the FBI and BJS will continue to explore (b) (5)
- Monday's data will show both that the overall volume of reported hate crime offenses decreased from 2020 to 2021 and, relatedly, the number of reporting agencies also decreased.
  - A few large law enforcement agencies (New York City, Los Angeles, Phoenix, San Jose, Miami-Dade), as well as some states (California and Florida), did not make the transition to NIBRS in time to submit data prior to the reporting deadline of March 14, 2022, and were not included in the 2021 reported totals.
- The folks in CRT-POL prepared a comparison table that is attached hereto. It shows:
  - The numbers are down the *most* in the following categories:
    - Anti-Jewish (down 52.56%)
    - Anti-Black (down 22.22%)
    - Anti-Hispanic/Latino (down 16.25%)
    - Anti-Muslim (down 12.37%)
  - There is a surprising 140.45% spike in Anti-Sikh bias.
  - Anti-AANHPI hate continues to experience a rise, with a further 15% increase.
  - Sexual Orientation hate crimes showed a 1.98% increase, even though 21.48% fewer agencies reported hate crimes than last year.
  - We experienced an overall 11.62% drop in the number of reported hate crimes.

Year	Total Incidents	# LEAs submitted	Total LEAs in country
2021	7303	11887	18812
2020	8052	15138	18625
2019	7103	15772	18674

Dena Iverson  
Principal Deputy Director, Office of Public Affairs  
U.S. Department of Justice

(b) (6) - Office  
(b) (6) - Cell  
(b) (6)

**From:** "Henthorne, Betsy (OASG)" <(b) (6)>

**To:** "Braden, Myesha (ODAG)" <(b) (6)>

**Subject:** RE: Quarterly Civil Rights Meeting

**Date:** Fri, 9 Dec 2022 00:58:36 +0000

**Importance:** Normal

---

Hey Myesha – just a heads up it looks like the racial profiling guidance TPs are missing and the hate crimes TPs appear twice. One other small thing: it says “Assistant” Attorney General in the DAG’s intro of Vanita.

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Thursday, December 8, 2022 6:20 PM  
**To:** Henthorne, Betsy (OASG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>;  
Harwood, Stacy (OAG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Revised documents attached.

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Thursday, December 8, 2022 6:11 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>;  
Harwood, Stacy (OAG) <(b) (6)>  
**Subject:** Re: Quarterly Civil Rights Meeting

Roger. Standing by. Thanks!

On Dec 8, 2022, at 5:50 PM, Braden, Myesha (ODAG) <(b) (6)> wrote:

HOLD!!! The Leadership Conference finally responded with an updated attendee list and agenda.

---

**From:** Braden, Myesha (ODAG)  
**Sent:** Thursday, December 8, 2022 5:48 PM  
**To:** Henthorne, Betsy (OASG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>;  
Harwood, Stacy (OAG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Hi, Betsy

Please see attached. << File: Event Memo - Quarterly Civil Rights Meeting.docx >>

Best,

Myesha

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Thursday, December 8, 2022 3:47 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>;  
Harwood, Stacy (OAG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Hi Myesha – would you mind sharing your briefing materials for the DAG for tomorrow’s meeting? Stacy (cc’d) is preparing Vanita’s book for tomorrow. Thanks!

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Tuesday, December 6, 2022 12:03 PM  
**To:** Henthorne, Betsy (OASG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Yes. Will do.

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Tuesday, December 6, 2022 12:02 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Super—thanks so much. Are you preparing a briefing memo for the DAG, and if so, do you mind sharing with us for the Associate when ready? Let us know if there’s anything we can do to assist. (Adding Saeed for awareness on the last agenda item, since he’s been working on that with you.)

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Tuesday, December 6, 2022 12:00 PM  
23-cv-1166 - 1330

**To:** Henthorne, Betsy (OASG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Betsy,

Per the Leadership Conference, the groups would like to focus on four areas of discussion, led as follows:

1. LDF – election security
2. SPLC – public education re: hate crime data release
3. HRC – anti-LGBTQ violence
4. ACLU – racial profiling guidance

Out typical agenda includes very brief welcoming remarks from the DAG, ASG, and AAG, then the meeting is turned over to the groups. It turns back to the DAG to wrap.

Best,

Myesha

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Tuesday, December 6, 2022 11:56 AM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Sooknanan, Sparkle (OASG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Thanks for sending Myesha—do we have an agenda/list of topics yet?

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Tuesday, December 6, 2022 11:54 AM  
**To:** Suero, Maya A. (ODAG) <(b) (6)>; Henthorne, Betsy (OASG) <(b) (6)>  
**Cc:** Thomas, Tina M. (ODAG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Maya,

The current RSVP list for the groups are attached. Will you send them web-ex invitations or should I send them the link? << File: RSVPs\_ODAG Meeting\_12092022 (002).xlsx >>

Thanks,

Myesha

---

**From:** Suero, Maya A. (ODAG) <(b) (6)>  
**Sent:** Tuesday, December 6, 2022 9:20 AM  
**To:** Henthorne, Betsy (OASG) <(b) (6)>  
**Cc:** Braden, Myesha (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Thanks for letting us know Betsy. I'll add Sparkle now.

Best,

**Maya Suero**  
Special Assistant  
Office of the Deputy Attorney General  
Phone: (b) (6)

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Monday, December 5, 2022 8:29 PM  
**To:** Suero, Maya A. (ODAG) <(b) (6)>  
**Cc:** Braden, Myesha (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>  
**Subject:** RE: Quarterly Civil Rights Meeting

Maya – Vanita asked me to let you know she'd like Sparkle to attend as well. Do you mind adding her to the invite? She will be out Friday morning and may be late; if so, she will join remotely, but otherwise she will be there in person.

Thanks!  
Betsy

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

-----Original Appointment-----

**From:** Schedule, DAG (SMO) <[DAG.Schedule@usdoj.gov](mailto:DAG.Schedule@usdoj.gov)>  
**Sent:** Wednesday, November 30, 2022 5:05 PM  
**To:** Schedule, DAG (SMO); Miller, Marshall (ODAG); Braden, Myesha (ODAG); Gupta, Vanita (OASG)  
**Cc:** Henthorne, Betsy (OASG); RFK-SurfaceHub2 (JMD); Thomas, Tina M. (ODAG); Clarke, Kristen (CRT); Cochran, Shaylyn (CRT)  
**Subject:** Quarterly Civil Rights Meeting  
**When:** Friday, December 9, 2022 11:30 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** DAG Conference Room, 4111; WebEx Meeting

POC: Myesha Braden  
Attendees:  
ODAG: DAG Monaco, Marshall Miller, Myesha Braden  
OASG: Vanita Gupta  
Guests:

\*WebEx link to come

**Note: This meeting is limited to the invited attendees only. You are not authorized to forward this invitation. If you believe other individuals should be included, please contact the ODAG Front Office.**



**From:** (b)(6) Adam Chandler <(b)(6) Adam Chandler>

**To:** Nathaniel Gamble <(b)(6)>

**Cc:** "Maya A. Suero" <(b)(6)>, "Tina M. Thomas" <(b)(6)>, Winnie Brinkley <(b)(6)>, "Donna Y. Simms" <(b)(6)>

**Subject:** Fwd: Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

**Date:** Thu, 8 Dec 2022 18:20:49 -0500

**Importance:** Normal

**Attachments:** Event\_Memo\_-\_Quarterly\_Civil\_Rights\_Meeting-revised.docx; Tab\_1\_-\_Agenda\_Quarterly\_Civil\_Rights\_Meeting.docx; Tab\_2\_-\_Talking\_Points-revised.docx

---

Nate, could we swap these materials in for the Quarterly Civil Rights meeting tomorrow? It's for meeting tab 1.

Thanks!

Adam

Begin forwarded message:

**From:** "Braden, Myesha (ODAG)" <(b)(6)>

**Date:** December 8, 2022 at 6:19:08 PM EST

**To:** "Suero, Maya A. (ODAG)" <(b)(6)>, "Chandler, Adam (ODAG)" <(b)(6)>

**Cc:** "Thomas, Tina M. (ODAG)" <(b)(6)>, "Miller, Marshall (ODAG)" <(b)(6)>, "Bruck, Andrew (ODAG)" <(b)(6)>

**Subject:** RE: Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

Revised Documents Attached.

---

**From:** Braden, Myesha (ODAG)

**Sent:** Thursday, December 8, 2022 5:50 PM

**To:** Suero, Maya A. (ODAG) <(b)(6)>; Chandler, Adam (ODAG) <(b)(6)>

**Cc:** Thomas, Tina M. (ODAG) <(b)(6)>; Miller, Marshall (ODAG) <(b)(6)>;

Bruck, Andrew (ODAG) <(b)(6)>

**Subject:** RE: Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

**Importance:** High

HOLD!!! Of course the Leadership Conference finally send the updated attendee list and agenda after I stopped waiting. Give me a moment to update.

---

**From:** Braden, Myesha (ODAG)

**Sent:** Thursday, December 8, 2022 5:47 PM

**To:** Suero, Maya A. (ODAG) <(b)(6)>; Chandler, Adam (ODAG) <(b)(6)>

**Cc:** Thomas, Tina M. (ODAG) <(b)(6)>; Miller, Marshall (ODAG) <(b)(6)>;

Bruck, Andrew (ODAG) <(b)(6)>

**Subject:** Briefing Materials for tomorrow's Quarterly Civil Rights Meeting

Hi, Everyone

Please see attached.

Best,

Myesha

Myesha Braden  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
United States Department of Justice  
(b) (6)

**EVENT MEMORANDUM**  
**FOR THE DEPUTY ATTORNEY GENERAL**

**FROM:** Myesha Braden  
**SUBJECT:** Quarterly Civil Rights Organization Meeting  
**DATE:** December 9, 2022

**OVERVIEW**

- On Friday, December 9 at 11:30am via Web-Ex video conferencing, you will host your quarterly meeting with civil rights organizations working at the intersection of civil rights and national security. You last met with them in July.
- The meeting will last one-hour, and you will be expected to provide brief welcoming remarks. We anticipate that the organizations will focus conversation on topics: 1) 2014 Racial Profiling Guidance, 2) Anti-Semitic and Anti-LGBTQ+ Violence, 3) Hate Crime Data, 4) Domestic Terrorism Categories & White Supremacy, and 5) National Security and Elections.
- ASG Gupta and AAG Clarke will join you during the meeting.
- The Agenda is attached as Tab 1.

**AUDIENCE**

The following organizations will participate in the meeting:

<b>American Civil Liberties Union</b> Hina Shamsi – Director, National Security Project Chris Anders - Deputy Political Director and Federal Policy Director	<b>Human Rights Watch</b> Laura Pitter – Deputy Director, U.S. Program
<b>Muslim Advocates</b> Sumayyah Waheed, Senior Policy Counsel	<b>Lawyers’ Committee for Civil Rights Under Law</b> Arthur Ago – Director of the Criminal Justice Project
<b>Southern Poverty Law Center</b> Michael Lieberman - Senior Policy Counsel, Hate & Extremism	<b>Leadership Conference on Civil &amp; Human Rights</b> Maya Wiley - President & CEO

	Jessalyn McCurdy - Executive Vice President, Government Affairs Nahid Paiman – Senior Policy Assistant Chanel Sherrod - Program Manager, Government Affairs
<b>Bend the Arc</b> Rabbi Jason Kimelman-Block - Washington Director	<b>NAACP Legal Defense &amp; Education Fund</b> Lisa Cylar Barrett - Director of Policy and Director of Washington D.C. Office
<b>Brennan Center for Justice</b> Faiza Patel - Director, Liberty and National Security Program Kirstin Dunham, Senior Legislative Counsel	<b>Religious Action Center for Reform Judaism</b> Rabbi Jonah Pesner - Director
<b>Human Rights Campaign</b> David Stacy – Government Affairs Director	<b>Asian Americans Advancing Justice</b> Marita Etcubanez - Senior Director of Strategic Initiatives

## DISCUSSION AND REMARKS

A summary of anticipated topics of discussion and the stated positions of attendee organizations on these topics is presented below. Suggested talking points concerning these issues are attached as Tab 2.

### ISSUE #1: 2014 Racial Profiling Guidance

- (b) (5) [REDACTED]
- CONCERNS:
  - (b) (5) [REDACTED]
  - (b) (5) [REDACTED]

(b) (5)

- (b) (5)
- (b) (5)
- (b) (5)

ISSUE #2: Hate Crime Data

- (b) (5)
- (b) (5)
- (b) (5)
- (b) (5)
- (b) (5)
- (b) (5)

(b) (5)

ISSUE #3: Anti-LGBTQ Violence

- (b) (5)

- (b) (5)

- (b) (5)

- (b) (5)

- (b) (5)

- (b) (5)

- (b) (5)

- (b) (5)

ISSUE #4: FBI Domestic Terrorism Categories & White Supremacy

- (b) (5)

[REDACTED]

ISSUE #5: National Security & Elections

- (b) (5)

[REDACTED]

*ATTACHMENTS*

- Tab 1 – Agenda
- Tab 2 - Talking Points

**ODAG's Quarterly Civil Rights Organization Meeting**  
***Agenda***

Friday, December 9, 2022

- I. **Opening** – Deputy Attorney General Monaco (*including brief remarks from ASG Gupta and AAG Clarke*)
- II. **Introduction** - Maya Wiley (The Leadership Conference) (5 minutes)
- III. **Discussion**
  - A. **Increase in Antisemitism** - Rabbi Jonah Pesner (RAC) (5 minutes)
  - B. **Increase in Anti-LGBTQ+ Hate** - David Stacy (HRC) (5 minutes)
  - C. **Revisions to the 2014 Profiling Guidance** - Hina Shamsi (ACLU) (15 minutes)
  - D. **National Security and Elections** - Lisa Cylar Barrett (NAACP LDF) (5 minutes)
  - E. **Hate Crimes Data Release** - Michael Lieberman (Southern Poverty Law Center) (5 minutes)
  - F. **White Supremacy in Law Enforcement** - Arthur Ago (Lawyers' Committee for Civil Rights Under Law) (5 minutes)
  - G. ***Confronting White Supremacist Violence: An Effective and Inclusive Path Forward Policy Paper*** - Faiza Patel (Brennan Center) (5 minutes)
- IV. **Conclusion** – DAG Monaco



## Quarterly Civil Rights Organization Meeting

### DAG TALKING POINTS

12/09/22

#### WELCOME

- Hello, again. I'm happy to continue this ongoing conversation we began together shortly after my confirmation.
- It's particularly appropriate to be speaking with you this week, as we commemorate the 65<sup>th</sup> anniversary of the Civil Rights Division.
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- Before we turn the floor over to Maya to lead today's discussion, Assistant Attorney General Gupta and AAG Clarke will offer a few brief words.

**ISSUE #1: 2014 Racial Profiling Guidance**

- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

## ISSUE #2: Hate Crime Data

- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

### **ISSUE #3: Anti-Semitism & Anti-LGBTQ+ Violence**

- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

### **ISSUE #4: FBI Domestic Terrorism Categories & White Supremacy**

- (b) (5) [REDACTED]

(b) (5)

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- (b) (5)
  - (b) (5)
  - (b) (5)
- (b) (5)
  - (b) (5)
- (b) (5)
- (b) (5)

**ISSUE #5: National Security & Elections**

- (b) (5)
- (b) (5)

- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

## **CONCLUSION**

- The Department of Justice mission to ensure equal justice under law is at the heart of everything we do.
- Thank you for consistently engaging the Department to raise issues of concern to your members and the communities you represent.

**EVENT MEMORANDUM**  
**FOR THE DEPUTY ATTORNEY GENERAL**

**FROM:** Myesha Braden  
**SUBJECT:** Quarterly Civil Rights Organization Meeting  
**DATE:** December 9, 2022

**OVERVIEW**

- On Friday, December 9 at 11:30am via Web-Ex video conferencing, you will host your quarterly meeting with civil rights organizations working at the intersection of civil rights and national security. You last met with them on September 19, 2022.
- The meeting will last one-hour, and you will be expected to provide brief welcoming remarks and engage the organizations in conversation on five anticipated topics: 1) 2014 Racial Profiling Guidance, 2) Anti-LGBTQI Violence, 3) Hate Crime Data, 4) Domestic Terrorism Categories, and 5) Election Security.
- ASG Gupta and AAG Clarke will join you during the meeting.

**AUDIENCE**

The following organizations will participate in the meeting:

<b>American Civil Liberties Union</b> Hina Shamsi – Director, National Security Project Chris Anders - Deputy Political Director and Federal Policy Director	<b>Human Rights Watch</b> Laura Pitter – Deputy Director, U.S. Program
<b>Muslim Advocates</b> Sumayyah Waheed, Senior Policy Counsel	<b>Lawyers’ Committee for Civil Rights Under Law</b> Damon Hewitt – President & Executive Director
<b>Southern Poverty Law Center</b> Michael Lieberman - Senior Policy Counsel, Hate & Extremism	<b>Leadership Conference on Civil &amp; Human Rights</b> Maya Wiley - President & CEO Jessalyn McCurdy - Executive Vice President, Government Affairs Nahid Paiman – Senior Policy Assistant

	Chanel Sherrod - Program Manager, Government Affairs
<b>Bend the Arc</b> Rabbi Jason Kimelman-Block - Washington Director	<b>NAACP Legal Defense &amp; Education Fund</b> TBD
<b>Brennan Center for Justice</b> Faiza Patel - Director, Liberty and National Security Program Kirstin Dunham, Senior Legislative Counsel	<b>Religious Action Center for Reform Judaism</b> Rabbi Jonah Pesner - Director
<b>Human Rights Campaign</b> David Stacy – Government Affairs Director	

### **AGENDA**

Greetings & Opening Remarks – Department of Justice (6 minutes)

- DAG Monaco
- ASG Gupta
- AAG Clarke

Introduction of Participants & Rules of Engagement – Maya Wiley (4 minutes)

Discussion - (48 minutes; each organization has 4 minutes)

- Moderated by Maya Wiley

Closing Remarks – DAG Monaco (2 minutes)

### **DISCUSSION AND REMARKS**

A summary of anticipated topics of discussion and the stated positions of attendee organizations on these topics is presented below. Suggested talking points concerning these issues are attached hereto as Tab 1.

ISSUE #1: 2014 Racial Profiling Guidance [*American Civil Liberties Union(ACLU)*]

- (b) (5)



- CONCERNS:



- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
  - (b) (5) [REDACTED]
  - (b) (5) [REDACTED]

ISSUE #2: Hate Crime Data [Southern Poverty Law Center(SPLC)]

- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

- (b) (5)
- (b) (5)
- (b) (5)

ISSUE #3: Anti-LGBTQ Violence [*Human rights Campaign(HRC)*]

- (b) (5)
  - (b) (5)
  - (b) (5)
  - (b) (5)
  - (b) (5)
- (b) (5)
- (b) (5)

(b) (5)

- (b) (5)


ISSUE #4: FBI Domestic Terrorism Categories [*Leadership Conference on Civil & Human Rights (Leadership Conference)*]

- (b) (5)
- (b) (5)
- (b) (5)

ISSUE #5: Election Security [Legal Defense Fund(LDF) née NAACP-LDF]

- (b) (5)

(b) (5)



- (b) (5)

*ATTACHMENT*

- Tab 1 – Suggested Talking Points

**From:** "Braden, Myesha (ODAG)" <(b) (6)>

**To:** "Miller, Marshall (ODAG)" <(b) (6)>

**Cc:** "Pietranton, Kelsey (PAO)" <(b) (6)>

**Subject:** Hate Crime Data Release Plans and BJS Estimation Procedures

**Date:** Thu, 08 Dec 2022 00:56:49 -0000

**Importance:** Normal

**Attachments:** 2021\_CDE\_compared\_w-2020,2019\_quick+OHupd.xlsx

---

Hi, Marshall

Alex Piquero provided the following information about the relationship of estimation procedures to the hate crime data:

- The hate crime data is incident-based and not estimated like the crime data released in October. Therefore, no estimates were produced concerning this data and, in any case, doing so would have been very challenging.
  - The FBI and BJS are researching how hate crimes are defined, tracked, measured, and coded across states to determine if reporting is consistent from place to place. As more agencies submit their crime data through NIBRS, the FBI and BJS will continue to explore (b) (5)
- Monday's data will show both that the overall volume of reported hate crime offenses decreased from 2020 to 2021 and, relatedly, the number of reporting agencies also decreased.
  - A few large law enforcement agencies (New York City, Los Angeles, Phoenix, San Jose, Miami-Dade), as well as some states (California and Florida), did not make the transition to NIBRS in time to submit data prior to the reporting deadline of March 14, 2022, and were not included in the 2021 reported totals.
- The folks in CRT-POL prepared a comparison table that is attached hereto. It shows:
  - The numbers are down the *most* in the following categories:
    - Anti-Jewish (down 52.56%)
    - Anti-Black (down 22.22%)
    - Anti-Hispanic/Latino (down 16.25%)
    - Anti-Muslim (down 12.37%)
  - There is a surprising 140.45% spike in Anti-Sikh bias.
  - Anti-AANHPI hate continues to experience a rise, with a further 15% increase.
  - Sexual Orientation hate crimes showed a 1.98% increase, even though 21.48% fewer agencies reported hate crimes than last year.
  - We experienced an overall 11.62% drop in the number of reported hate crimes.

Year	Total Incidents	# LEAs submitted	Total LEAs in country
2021	7303	11887	18812
2020	8052	15138	18625
2019	7103	15772	18674

During yesterday's call with FBI, BJS, CRT, EOUSA, and OPA, the components discussed the following plans in preparation for the data release:

- FBI conducted a Beta release on Monday that gave 5 organizations (the Leadership Conference, American Jewish Committee, ADL, SPLC, Sikh Coalition, and the Arab American Institute) 24-hour access to the 2021 hate crime data.

- FBI is coordinating with OPA to conduct a press call at 8:30am on 12/12/23 before the data is released. FBI-CJIS, FBI-CID and someone from either OASG or CRT will participate in the call.
- FBI will publish a press release as the data is made public, targeting DOJ regulars and outlets that have made specific outreach concerning the hate crime data.
- FBI CJIS is preparing FAQs that will be linked to the web-site data. (They will share the FAQs with OPA, CRT, EOUSA, and OJP.)
- CRT will host a call with 10 or so civil rights stakeholders either the evening of the data release or the morning after.
- OJP within the coming days/weeks, OJP will publish a blog post outlining upcoming hate crime grant awards under the Till and Shepherd/Byrd programs.

Best,

Myesha

Myesha Braden  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
United States Department of Justice  
(b) (6)

**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Brinkley, Winnie (ODAG)" <(b) (6)>

**Subject:** Quarterly Civil Rights Meeting

**Date:** Tue, 6 Dec 2022 17:11:32 +0000

**Importance:** Normal

**Attachments:** unnamed

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Duplicative Information - See Document ID 23-cv-1166 - 1436

**From:** "Pietranton, Kelsey (PAO)" <(b) (6)>  
**To:** "Bruck, Andrew (ODAG)" <(b) (6)>  
**Cc:** "Thomas, Tina M. (ODAG)" <(b) (6)>

**Subject:** RE: Groups

**Date:** Tue, 22 Nov 2022 21:35:40 +0000

**Importance:** Normal

---

Oh bless you for helping me with this project!

---

**From:** Bruck, Andrew (ODAG) <(b) (6)>  
**Sent:** Tuesday, November 22, 2022 4:31 PM  
**To:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Cc:** Thomas, Tina M. (ODAG) <(b) (6)>  
**Subject:** RE: Groups

Here's Vanita's list. Looks like Greenblatt is on it.

---

**From:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Sent:** Tuesday, November 22, 2022 4:24 PM  
**To:** Thomas, Tina M. (ODAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>;  
Henthorne, Betsy (OASG) <(b) (6)>; Figures, Shomari (OAG) <(b) (6)>;  
Walker, Burden (OAG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>; Pride Jr,  
Theron P. (OASG) <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Groups

Circling back to say we'll suggest Jonathan Greenblatt (CEO and National Director of the ADL) be invited. That should round the out the list of groups.

Thank you all and Happy Thanksgiving!  
Kelsey

---

**From:** Thomas, Tina M. (ODAG) <(b) (6)>  
**Sent:** Tuesday, November 22, 2022 8:39 AM  
**To:** Braden, Myesha (ODAG) <(b) (6)>; Henthorne, Betsy (OASG) <(b) (6)>;  
Pietranton, Kelsey (PAO) <(b) (6)>; Figures, Shomari (OAG) <(b) (6)>;  
Walker, Burden (OAG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>; Pride Jr,  
Theron P. (OASG) <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Groups

Betsy and all,

Here are the invitations from the DAG that we sent out. We deconflicted with the ASG's list, so we did not send any invites that were on the ASG's list.

As you can see, all the organizations on Kelsey's list below have been covered by these invites. But as she noted, ADL is not represented (HRC is, though, if we're referring to the Human Rights Campaign).

The organizations on Myesha's list are *not* covered by the invites we sent out.



Immigration quarterly invitees	(b)(6) Gregory Chen (b)(6) Jennifer Whitlock (b)(6) Sirine Shebaya (b)(6) Andrew Wachtenheim (b)(6) Michael Tan (b)(6) Alison Kamhi (b)(6) Laura Lynch (b)(6) Ruthie Epstein (b)(6) Kate Voigt (b)(6) Jeremy McKinney (b)(6) Kristi Gaines (b)(6) Echo King (b)(6) Wendy Wayne
CRT quarterly invitees	(b)(6) Hina Shamsi (b)(6) Chris Anders (b)(6) Maya Berry (b)(6) Marita Etcubanez (b)(6) Jason Kimeiman-Block (b)(6) Kirstin Dunham (b)(6) David Stacy (b)(6) Laura Pitter (b)(6) Damon Hewitt (b)(6) Arthur Ago (b)(6) Sumayyah Waheed (b)(6) Lisa Cylar Barrett (b)(6) Janai Nelson (b)(6) Faith Williams (b)(6) Barbara Weinstein (b)(6) Michael Lieberman (b)(6) Maya Wiley (b)(6) Nadia Aziz (b)(6) Chanel Sherrod (b)(6) Jesselyn McCurdy

Thanks,  
Tina

**Tina M. Thomas**

Deputy Chief of Staff and Counsel  
Office of the Deputy Attorney General  
U.S. Department of Justice  
(o)(b) (6) | (m)(b) (6)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Tuesday, November 22, 2022 12:05 AM  
**To:** Henthorne, Betsy (OASG) <(b) (6)>; Pietranton, Kelsey (PAO) <(b) (6)>;  
Figures, Shomari (OAG) <(b) (6)>; Walker, Burden (OAG) <(b) (6)>; Mody,  
Saeed (OASG) <(b) (6)>; Pride Jr, Theron P. (OASG) <(b) (6)>; Guttentag, Lucas  
(ODAG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>;  
Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Groups

The legacy civil rights groups that attended the AG-hosted meetings are not listed:

2. National Urban League, President and CEO Marc Morial
3. National Action Network, President and CEO, Rev. Al Sharpton
4. National Council of Negro Women, Chair, Dr. Johnnetta B. Cole
5. National Coalition on Black Civic Participation, President and CEO, Melanie Campbell

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**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Monday, November 21, 2022 11:46 PM  
**To:** Pietranton, Kelsey (PAO) <(b) (6)>; Figures, Shomari (OAG) <(b) (6)>; Walker, Burden (OAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>; Pride Jr, Theron P. (OASG) <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Groups

Got it—would be great to see a full list of groups covered by the CR and immigration meetings to assess whether any are missing. How hard would that be?

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

---

**From:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Sent:** Monday, November 21, 2022 7:11 PM  
**To:** Henthorne, Betsy (OASG) <(b) (6)>; Figures, Shomari (OAG) <(b) (6)>; Walker, Burden (OAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>; Pride Jr, Theron P. (OASG) <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Groups

Yes, I'm asking whether there are any major advocacy groups—who are not already invited under those two groups or as part of the ASG's list—that we would like to be invited. The answer could very well be no, that all the groups we want to be invited have already received invites.

Thanks!

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>  
**Sent:** Monday, November 21, 2022 7:07 PM  
**To:** Pietranton, Kelsey (PAO) <(b) (6)>; Figures, Shomari (OAG) <(b) (6)>; Walker, Burden (OAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>; Pride Jr, Theron P. (OASG) <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** RE: Groups

Thanks Kelsey. +@Guttentag, Lucas (ODAG).

Vanita had some of these folks on her invite list already, but not all. Are you asking for groups beyond the CR and immigration quarterly meetings?

**Betsy Henthorne** | Chief of Staff  
Office of the Associate Attorney General  
office: (b) (6)  
mobile: (b) (6)

---

**From:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Sent:** Monday, November 21, 2022 7:02 PM  
**To:** Figures, Shomari (OAG) <(b) (6)>; Walker, Burden (OAG) <(b) (6)>;  
Henthorne, Betsy (OASG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>;  
Mody, Saeed (OASG) <(b) (6)>; Pride Jr, Theron P. (OASG) <(b) (6)>  
**Cc:** Bruck, Andrew (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>;  
Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** FW: Groups

Hi All,

Reaching out re: the below ask to invite advocacy groups to the holiday party. I understand that those who attend the CRT (and immigration) quarterly have already been put on the list so is there anybody else we would like to be sure to include?

Below is the latest list I've seen of orgs invited to the CRT quarterly (note: this could be old). This doesn't include the ADL and HRC, would we want to include them? Any other orgs we should include?

I'm assuming presidents and or executive directors? Let me know if folks would like to huddle up on this tomorrow.

Thanks!  
Kelsey

*ACLU  
Arab American Institute  
Asian Americans Advancing Justice  
Bend the Arc  
Brennan Center for Justice  
Human Rights Campaign  
Human Rights Watch  
Lawyers' Committee for Civil Rights Under Law  
NAACP Legal Defense Fund  
Religious Action Center of Reform Judaism  
Southern Poverty Law Center  
Leadership Conference*

---

**From:** Coley, Anthony D. (PAO) <(b) (6)>  
**Sent:** Monday, November 21, 2022 6:33 PM  
**To:** Pietranton, Kelsey (PAO) <(b) (6)>  
**Cc:** Iverson, Dena (PAO) <(b) (6)>; Hornbuckle, Wyn (PAO) <(b) (6)>  
**Subject:** Fwd: Groups

Hey Kelsey, Can you take this, working with OASG and ODAG to make sure we have the right universe of folks?

Begin forwarded message:

**From:** "Watson, Theresa (OAG)" <(b) (6)>  
**Date:** November 21, 2022 at 6:25:33 PM EST  
**To:** "Klapper, Matthew B. (OAG)" <(b) (6)>  
**Cc:** "Coley, Anthony D. (PAO)" <(b) (6)>  
**Subject:** Re: Groups

Pull together a list by tomorrow.

Sent from my iPhone

On Nov 21, 2022, at 3:52 PM, Klapper, Matthew B. (OAG) <(b) (6)> wrote:

Not sure, but agree with your instinct.

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**From:** Coley, Anthony D. (PAO) <(b) (6)>  
**Sent:** Monday, November 21, 2022 3:49 PM  
**To:** Klapper, Matthew B. (OAG) <(b) (6)>  
**Subject:** Groups

Hey are there the heads of any external groups (e.g., ADL, NAACP, HRC) on the holiday party invite list? If there's room, I'd make the argument that we should invite them? Can have Kelsey work with the appropriate folks to pull together a list for your review...

**ASG Holiday List**

Huge Clements (b) (6)

Dwayne Crawford (b) (6)

Terry Cunningham (b) (6)

Karen Dunn (b) (6)

Keith Ellison (b) (6)

Eddie Garcia (b) (6)

Jonathan Greenblatt (b) (6)

Wade Henderson (b) (6)

Damon Hewitt (b) (6)

Eric Holder (b) (6)

Peter Hyun (b) (6)

Sherrilyn Ifill (b) (6)

Dennis Lemma (b) (6)

Judy Lichtman (b) (6)

Alexis McGill Johnson (b) (6)

Derrick Johnson (b) (6)

Gene Kimmelman (b) (6)

Peter Koutoujian (b) (6)

Barb McQuade (b) (6)

Marc Morial (b) (6)

Seema Nanda (b) (6)

Janai Nelson (b) (6)

Jim Pasco (b) (6)

Jonah Pesner (b) (6)

Doug Peterson (forthcoming)

Karl Racine (b) (6)

Dana Remus (b) (6)

Kevin Ring (b) (6)

Rashad Robinson (b) (6)

Anthony Romero (b) (6)

Thomas Saenz (b) (6)

Vince Talucci (b) (6)

Joyce Vance (b) (6)

Don Verrilli (b) (6)

Phil Weiser (b) (6)

Chuck Wexler (b) (6)

Maya Wiley (b) (6)

John Yang (b) (6)

Sally Yates (b) (6)

Patrick Yoes (b) (6)

**From:** "Clarke, Kristen (CRT)" <(b) (6)>  
**To:** Marielena Hincapie <(b) (6)>, "Gupta, Vanita (OASG)" <(b) (6)>, "Guttentag, Lucas (ODAG)" <(b) (6)>, "Neal, David L. (EOIR)" <(b) (6)>  
**Cc:** Raha Wala <(b) (6)>, Lisa Graybill <(b) (6)>

**Subject:** RE: Hasta pronto & introducing you to NILCs VP, Strategic Partnerships & Advocacy

**Date:** Sat, 19 Nov 2022 03:41:21 +0000

**Importance:** Normal

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Thank you for this note, Marielena. It's been a pleasure. We wish you well as you move forward!

Lisa and Raha – A pleasure to meet you by way of email. Look forward to being in touch.

Kristen

Kristen Clarke  
Assistant Attorney General  
Civil Rights Division  
U.S. Department of Justice

---

**From:** Marielena Hincapie <(b) (6)>  
**Sent:** Friday, November 18, 2022 9:12 PM  
**To:** Gupta, Vanita (OASG) <(b) (6)>; Clarke, Kristen (CRT) <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>; Neal, David L. (EOIR) <(b) (6)>  
**Cc:** Raha Wala <(b) (6)>; Lisa Graybill <(b) (6)>  
**Subject:** [EXTERNAL] Fw: Hasta pronto & introducing you to NILCs VP, Strategic Partnerships & Advocacy

Dear Vanita, Kristen, Lucas, and David,

It's been an absolute pleasure working with you over all these years! I leave you in the capable hands of Lisa who many of you know from her days at the ACLU, SPLC, and DOJ, as well as Raha who comes to the immigrant justice movement with 15+ years of advocacy experience in the human rights sector.

I hope you take the opportunity to meet and collaborate.

Mil gracias!  
Marielena

**Marielena Hincapié, Esq. | Executive Director**  
**National Immigration Law Center | NILC Immigrant Justice Fund**  
(b) (6)

@MarielenaNILC



**From:** Marielena Hincapie

**Sent:** Friday, November 18, 2022 5:58 PM

**To:** Marielena Hincapie <(b) (6)>

**Cc:** Raha Wala <(b) (6)>

**Subject:** Hasta pronto & introducing you to NILCs VP, Strategic Partnerships & Advocacy

Dear colleagues,

After 22 years at the National Immigration Law Center (NILC), including 14 as the organization's executive director, I am officially wrapping up my time at NILC and the NILC Immigrant Justice Fund (IJF) today.

It has been an absolute honor to lead NILC+IJF, an organization founded specifically to serve low-income immigrant families like mine. While I will miss NILC and my colleagues, I firmly believe that executive leadership transitions are healthy and necessary for organizations to thrive. We are led by a visionary board of directors, guided by a compelling [strategic framework](#), and have fostered strong leaders at every level of our organization with a highly experienced senior leadership team who will remain laser-focused on making progress on key priorities while helping to lead the organization through this transition.

When I made the decision to transition from NILC+IJF, I did so because I have full confidence in the leaderful organization we have become, which includes many of the staff you all know well. I am excited to pass the baton to our talented staff, including our expanded Senior Leadership Team: Sara Gould (Interim Executive Director – former Board Chair), Genia Wright (Executive Vice President, Capacity Building), Lisa Graybill (VP, Law & Policy), Will Dempster (VP, Strategic Communications & Narrative), Raha Wala (Vice President, Strategic Partnerships & Advocacy), and Kica Matos (EVP, Program & Strategy) who will be joining in January!

NILC and IJF thrive through the valuable partnerships we have created over the years with people like you, who help us address critical issues affecting low-income immigrants. We appreciate and value your partnership, and NILC looks forward to continuing to work with you after my transition. I am connecting you directly to Raha who will continue to advance NILC's federal and state/local advocacy priorities among his team and will be the main point person during and after my offboarding.

There's no doubt that there are tough times ahead in our fight for greater racial, economic, gender, and immigrant justice and equity, for our democracy and our planet. And we must not lose sight of the fact that we're winning. We're winning with the historic policy victories the Biden-Harris administration has achieved so far. We're winning at the state and local levels to advance immigrant-inclusive policy solutions that lift the floor so that everyone has the freedom to thrive. And we're winning at convincing voters to reject extremism and support a more inclusive vision for our country as they did in these recent mid-term elections.

NILC is finalizing a celebration in DC on December 8<sup>th</sup> where I hope you can join us to celebrate our collective victories and impact. For now, I want to take this opportunity to express my deep gratitude for your partnership over the last two decades —and your fierce commitment to low-income immigrant communities, to justice and equity, and to democracy.

with deep gratitude,

Marielena

(b) (6)

**Marielena Hincapié, Esq. | Executive Director**  
**National Immigration Law Center | NILC Immigrant Justice Fund**

(b) (6)



**From:** "Braden, Myesha (ODAG)" <(b) (6)>  
**To:** "Miller, Marshall (ODAG)" <(b) (6)>, "Folk, Anders (ODAG)" <(b) (6)>, "Gannon, Anne (ODAG)" <(b) (6)>, "Davies, Susan M. (OLP)" <(b) (6)>, "Robinette, Kathryn A. (OLP)" <(b) (6)>, "FIROZVI, NADIA" <(b) (6)>, "Visser, Tim (OAG)" <(b) (6)>, "Mody, Saeed (OASG)" <(b) (6)>, "Darden, Silas (USMS)" <(b) (6)>, "Serres, Greg" <(b) (6)>, "Tapp, Aaron G. (CID) (FBI)" <(b)(7)(E) per FBI>, "Richardson, Marvin G." <(b) (6)>, "Cekada, Robert" <(b) (6)>, "(b)(6), (7)(C), (7)(F) per DEA", "(b)(6), (7)(C), (7)(F) per DEA", "(b)(6), (7)(C), (7)(F) per DEA", "Smith, Johnathan (CRT)" <(b) (6)>, "Cochran, Shaylyn (CRT)" <(b) (6)>, "Weiner, Robert (CRT)" <(b) (6)>  
**Cc:** "Brinkley, Winnie (ODAG)" <(b) (6)>, "Sterling, Brian" <(b) (6)>, "Shaw, Ann Marie" <(b) (6)>, "Bruck, Andrew (ODAG)" <(b) (6)>, "Thomas, Tina M. (ODAG)" <(b) (6)>, "(b)(6), (7)(C) per ATF" <(b) (6)>, "Rothrock, R. Joseph (CID) (FBI)" <(b)(7)(E) per FBI>, ATF Deputy Director <(b)(6), (7)(C) per ATF>

**Subject:** RE: 2014 Racial Profiling Guidance Listening Session

**Date:** Mon, 19 Sep 2022 14:59:02 +0000

**Importance:** Normal

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Hi, Everyone

To save time, we'll dispense with introducing non-speaking individuals from each of the Leadership Conference orgs. For your awareness, all participants are listed below:

**LEADERSHIP CONFERENCE ORGANIZATIONS:**

- Jesselyn McCurdy, Executive Vice President, Government Affairs, The Leadership Conference on Civil and Human Rights
- Nadia Aziz, Senior Director, Fighting Hate and Bias, The Leadership Conference on Civil and Human Rights
- Chloe White, Senior Counsel, Justice Reform, The Leadership Conference on Civil and Human Rights
- Nahid Paiman, Assistant, Government Affairs, The Leadership Conference on Civil and Human Rights
- Maya Berry, Executive Director, Arab American Institute
- Faiza Patel, Senior Director, Liberty & National Security, Brennan Center for Justice
- Spencer Reynolds, Counsel, Liberty & National Security, Brennan Center for Justice
- Laura Pitter, US Program Acting Director Human Rights Watch
- Alison Parker, US Program, Managing Director, Human Rights Watch
- Olivia Ensign, US Program Senior Advocate, Human Rights Watch
- Rabbi Jason Kimelman-Block, Bend the Arc
- Arielle Gingold, Bend the Arc
- Hina Shamsi, Director National Security Project, ACLU
- Chris Anders, Director of National Policy, ACLU
- LaShawn Warren, Chief Policy Officer, Southern Poverty Law Center
- Nina Patel, Senior Policy Counsel Decarceration and Criminal Legal System Reform, Southern Poverty Law Center
- Michael Lieberman, Senior Policy Counsel, Hate and Extremism, Southern Poverty Law Center
- Lisa Cylar Barrett – Director of Policy and Director of Washington, DC Office, NAACP Legal Defense Fund
- Puneet Cheema, Manager – Justice in Public Safety Project, NAACP Legal Defense Fund
- Jiny Kim, Vice President for Policy and Programs, Asian Americans Advancing Justice-AAJC

- Marita Etcubanez, Senior Director of Strategic Initiatives, Asian Americans Advancing Justice-AAJC
- Sirene Shebaya - Executive Director of the National Immigration Project (NIPNLG)
- Guerline Jozef, Haitian Bridge Alliance

Best,

Myesha

**From:** Braden, Myesha (ODAG)

**Sent:** Monday, September 19, 2022 10:27 AM

**To:** Miller, Marshall (ODAG) <(b) (6)>; Folk, Anders (ODAG) <(b) (6)>; Gannon, Anne (ODAG) <(b) (6)>; Davies, Susan M. (OLP) <(b) (6)>; Robinette, Kathryn A. (OLP) <(b) (6)>; FIROZVI, NADIA <(b) (6)>; Visser, Tim (OAG) <(b) (6)>; Mody, Saeed (OASG) <(b) (6)>; Darden, Silas (USMS) <(b) (6)>; Serres, Greg <(b) (6)>; Tapp, Aaron G. (CID) (FBI) <(b)(7)(E) per FBI>; Richardson, Marvin G. <(b) (6)>; Cekada, Robert <(b) (6)>; <(b)(6), (7)(C), (7)(F) per DEA>; Smith, Johnathan (CRT) <(b) (6)>; Cochran, Shaylyn (CRT) <(b) (6)>; Weiner, Robert (CRT) <(b) (6)>

**Cc:** Brinkley, Winnie (ODAG) <(b) (6)>; Sterling, Brian <(b) (6)>; Shaw, Ann Marie <(b) (6)>; Bruck, Andrew (ODAG) <(b) (6)>; Thomas, Tina M. (ODAG) <(b) (6)>; <(b)(6), (7)(C) per ATF> <(b) (6)>; Rothrock, R. Joseph (CID) (FBI) <(b)(7)(E) per FBI>; ATF Deputy Director <(b)(6), (7)(C) per ATF>

**Subject:** 2014 Racial Profiling Guidance Listening Session

**Importance:** High

Good Morning, Everyone

The Outlook "HOLD" invitation is now down and everyone should have the Web-Ex invite. We will begin with Introductions and brief remarks from PADAG Marshal Miller before turning the meeting over to the Leadership Conference and it's member organizations. They have shared their order and identified topics of speaking. Please see below:

## **Introduction – The Leadership Conference on Civil and Human Rights (Nadia Aziz) (1 min)**

### **II. Historical Context and Framework – ACLU (Hina Shamsi) (4 min)**

### **III. National Security**

- a. Arab American Institute (Maya Berry) (5 min)
- b. NAAACP Legal Defense Fund (Lisa Cylar-Barrett) (5 min)
- c. Asian Americans Advancing Justice (Gisela Kusakawa) (5 min)

### **IV. Application to State/Local Law Enforcement - Federal Law Enforcement Task Forces (4 minutes)**

- a. Southern Poverty Law Center (Nina Patel)

### **V. Border Incidents**

- a. Haitian Bridge Alliance (Guerline Jozef) (5 min)
- b. National Immigration Project, National Lawyers Guild, (Sirene Shebaya) (5 min)
- c. Human Rights Watch (5 min)

### **VI. Application to DHS (5 min)**

- a. Brennan Center, Faiza Patel

Best,

Myesha

Myesha Braden  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
United States Department of Justice  
(b) (6)

**From:** "Davies, Susan M. (OLP)" <(b) (6)>  
**To:** "Mody, Saeed (OASG)" <(b) (6)>, (b)(6), (7)(C) per ATF  
<(b) (6)>, "Smith, Christina (ATJ)" <(b) (6)>, (b)(6), (7)(C) per BOP  
<(b)(6), (7)(C) per BOP>, "Bingham, Lauren C. (CIV)"  
<(b) (6)>, "Cutlar, Shanetta (COPS)"  
<(b) (6)>, "Kempler, Alissa (CRM)" <(b) (6)>, "Segovia, Theresa (CRS)" <(b) (6)>, "Cochran, Shaylyn (CRT)"  
<(b) (6)>, (b)(6), (7)(C), (7)(F) per DEA  
<(b)(6), (7)(C) per EOUSA>, "Weiner, Robert (CRT)"  
<(b) (6)>, "Dunham, Timothy M. (TD) (FBI)" <(b)(7)(E) per FBI>, "Lauria, Jolene A. (JMD)" <(b) (6)>, "Findlay, Patrick (NSD)"  
<(b) (6)>, "Sumner, Patricia (OIG)" <(b) (6)>, "O'Neill, Sean (OIP)" <(b) (6)>, "Fisher, Christopher M. (OJP)"  
<(b) (6)>, "Antell, Kira M. (OLA)"  
<(b) (6)>, "Iverson, Dena (PAO)" <(b) (6)>, "Young, Brian A. (OPCL)" <(b) (6)>, "Chaney, Christopher B. (OTJ)"  
<(b) (6)>, "Randall, Allison (OVW)"  
<(b) (6)>, "Jahn, Danielle C. (PARDON)"  
<(b) (6)>, "Darden, Silas (USMS)" <(b) (6)>, "Nieboer, Chad (USMS)" <(b) (6)>, "Donini-Melanson, Brandy (USAEO)" <(b)(6), (7)(C) per EOUSA>, "Weiner, Robert (CRT)"  
<(b) (6)>, "Donini-Melanson, Brandy (USAEO)" <(b)(6), (7)(C) per EOUSA>  
**Cc:** "Henthorne, Betsy (OASG)" <(b) (6)>, "Robinette, Kathryn A. (OLP)"  
<(b) (6)>, "Gannon, Anne (ODAG)"  
<(b) (6)>, "Eichenholtz, Seth (ODAG)"  
<(b) (6)>, "Robertson, Ashley E. (ODAG)"  
<(b) (6)>, "BenAry, Michael (ODAG)"  
<(b) (6)>, "Harper, Brandon (ODAG)"  
<(b) (6)>

**Subject:** RE: Engaging with Stakeholders on Policing and Criminal Justice EO

**Date:** Wed, 16 Nov 2022 21:47:20 +0000

**Importance:** Normal

**Attachments:** Stakeholder\_Engagement\_Tracker.xlsx

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Good afternoon all –

In response to recent feedback from outside groups and organizations who are eager to participate in the EO process with their views and experiences, (b) (5). To that end, please provide more detail on the stakeholder engagement you have conducted thus far, and what further engagement you have planned. We need to report all these efforts, which we know are considerable, (b) (5). Please see attached for examples, e.g. row 21/Section 4(a).

Thanks yet again, smd

Susan M. Davies  
Deputy Assistant Attorney General  
Office of Legal Policy  
Department of Justice  
(b) (6)

**From:** Mody, Saeed (OASG) <(b) (6)>  
**Sent:** Monday, October 17, 2022 11:11 AM  
**To:** (b)(6), (7)(C) per ATF <(b) (6)>; Smith, Christina (ATJ) <(b) (6)>; (b)(6), (7)(C) per BOP (BOP) <(b)(6); (7)(C) per BOP>; Bingham, Lauren C. (CIV) <(b) (6)>; Cutlar, Shanetta (COPS) <(b) (6)>; Kempler, Alissa (CRM) <(b) (6)>; Segovia, Theresa (CRS) <(b) (6)>; Cochran, Shaylyn (CRT) <(b) (6)>; (b)(6), (7)(C), (7)(F) per DEA <(b)(6), (7)(C), (7)(F) per DEA>; Monteleone, Robby (USAEO) <(b)(6), (7)(C) per EOUSA>; Weiner, Robert (CRT) <(b) (6)>; Dunham, Timothy M. (TD) (FBI) <(b)(7)(E) per FBI>; Lauria, Jolene A. (JMD) <(b) (6)>; Findlay, Patrick (NSD) <(b) (6)>; Sumner, Patricia (OIG) <(b) (6)>; O'Neill, Sean (OIP) <(b) (6)>; Fisher, Christopher M. (OJP) <(b) (6)>; Antell, Kira M. (OLA) <(b) (6)>; Iverson, Dena (PAO) <(b) (6)>; Young, Brian A. (OPCL) <(b) (6)>; Chaney, Christopher B. (OTJ) <(b) (6)>; Randall, Allison (OVW) <(b) (6)>; Jahn, Danielle C. (PARDON) <(b) (6)>; Darden, Silas (USMS) <(b) (6)>; Nieboer, Chad (USMS) <(b) (6)>; Donini-Melanson, Brandy (USAEO) <(b)(6), (7)(C) per EOUSA>; Weiner, Robert (CRT) <(b) (6)>  
**Cc:** Henthorne, Betsy (OASG) <(b) (6)>; Davies, Susan M. (OLP) <(b) (6)>; Robinette, Kathryn A. (OLP) <(b) (6)>; Gannon, Anne (ODAG) <(b) (6)>; Eichenholtz, Seth (ODAG) <(b) (6)>; Robertson, Ashley E. (ODAG) <(b) (6)>; BenAry, Michael (ODAG) <(b) (6)>  
**Subject:** RE: Engaging with Stakeholders on Policing and Criminal Justice EO

Good morning,

I hope the attached document has been helpful as you continue your stakeholder engagement on the EO. It is important that we keep track of our follow up stakeholder engagement, so please keep a record of who you met with and on what section.

Please let me know if you have any questions.

Thank you,

Saeed

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**From:** Mody, Saeed (OASG)  
**Sent:** Friday, September 30, 2022 2:49 PM  
**To:** (b)(6), (7)(C) per ATF <(b) (6)>; Smith, Christina (ATJ) <(b) (6)>; (b)(6), (7)(C) per BOP (BOP) <(b)(6); (7)(C) per BOP>; Bingham, Lauren C. (CIV) <(b) (6)>; Cutlar, Shanetta (COPS) <(b) (6)>; Kempler, Alissa (CRM) <(b) (6)>; Segovia, Theresa (CRS) <(b) (6)>; Cochran, Shaylyn (CRT) <(b) (6)>; (b)(6), (7)(C), (7)(F) per DEA <(b)(6), (7)(C), (7)(F) per DEA>; Monteleone, Robby (USAEO) <(b)(6), (7)(C) per EOUSA>; Weiner, Robert (CRT) <(b) (6)>; Dunham, Timothy M. (TD) (FBI) <(b)(7)(E) per FBI>; Lauria, Jolene A. (JMD) <(b) (6)>; Findlay, Patrick (NSD) <(b) (6)>; Sumner, Patricia (OIG) <(b) (6)>; O'Neill, Sean (OIP) <(b) (6)>; Fisher, Christopher M. (OJP) <(b) (6)>; Antell, Kira M. (OLA) <(b) (6)>; Iverson, Dena (PAO) <(b) (6)>; Young, Brian A. (OPCL) <(b) (6)>; Chaney, Christopher B. (OTJ) <(b) (6)>; Randall, Allison (OVW) <(b) (6)>; Jahn, Danielle C. (PARDON) <(b) (6)>; Darden, Silas (USMS) <(b) (6)>; Nieboer, Chad (USMS) <(b) (6)>  
**Cc:** Henthorne, Betsy (OASG) <(b) (6)>; Davies, Susan M. (OLP) <(b) (6)>; Robinette, Kathryn A. (OLP) <(b) (6)>; Gannon, Anne (ODAG) <(b) (6)>; Eichenholtz, Seth (ODAG) <(b) (6)>; Robertson, Ashley E. (ODAG) <(b) (6)>; BenAry, Michael (ODAG) <(b) (6)>  
**Subject:** Engaging with Stakeholders on Policing and Criminal Justice EO

Good afternoon,

Over the past few weeks, the Associate Attorney General met with the groups listed below to discuss the Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety. The meetings also included DOJ staff from ODAG, OASG, and OLP. These stakeholders provided feedback on EO provisions that they had specific concerns about or could provide expertise on. The Associate told the groups there would be follow up engagement so that they could further provide input on implementation. As we all know, stakeholder engagement is an integral part of the EO implementation process for all sections, not just the sections that explicitly require it.

The attached document includes notes from the Associate's meetings and is divided by EO section. There is also a summary of all sections on p. 3. For any section where a group has expressed interest, it is important that one of the lead components on a particular EO provision contact the organization and provide them an opportunity to meaningfully provide feedback. This will likely look different depending on the section, but these groups are eager to provide specific thoughts and concerns. If there are any provisions of the EO that you do not intend to engage with stakeholders, please let us know.

If you have any questions, please do not hesitate to contact me, Susan Davies, and Betsy Henthorne.

Thank you,

Saeed

The Associate met with the following groups:

- FLEOA (Federal Law Enforcement Officers Association) – September 8
  - Larry Cosme (President) – (b) (6)
- FOP (Fraternal Order of Police) – August 15
  - Tim Richardson (Sr. Legislative Liaison) – (b) (6)
- IACP (International Association of Chiefs of Police) – August 11
  - Gene Voegtlin (IACP Outreach Director) – (b) (6)
  - Sarah Guy (Senior Advisor) – (b) (6)
- MCCA (Major Cities Chiefs Association) – August 12
  - Laura Cooper (Exec. Director) – (b) (6)
- MCSA (Major County Sheriffs of America) – August 11
  - Megan Noland (President) – (b) (6)
  - Ben Bawden – (b) (6)
- NAPO (National Association of Police Organizations) – August 11
  - Bill Johnson (Exec. Director) – (b) (6)
- NOBLE (National Organization of Black Law Enforcement) – August 19
  - Dwayne Crawford (Exec. Director) – (b) (6)
- NSA (National Sheriff's Association) – September 9
  - Carrie Hill (Director) – (b) (6)
- PERF (Police Executive Research Forum) – August 15
  - Chuck Wexler (Exec. Director) – (b) (6)
- LCCHR (Leadership Conference on Civil and Human Rights) – August 15
  - Leadership Conference – Maya Wiley (Exec. Director) – (b) (6) (Second LCCHR POC Kanya Bennett (Director of Government Affairs) – (b) (6))
  - Lawyers' Committee – Damon Hewitt
  - Center for Policing Equity – Hilary Rau
  - Advancement Project
  - National Action Network (NAN) – Ebonie Riley
  - Collier Collective, LLC
  - ACLU – Cynthia Roseberry
  - Southern Poverty Law Center – LaShawn Warren
  - National Action Network (NAN)
  - NAACP LDF – Lisa Cylar Barrett



- National Urban League
- NAACP
- Innocence Project – Rebecca Brown
- Vera Institute
- Center for Innovations in Community Safety
- Bazelon Center for Mental Health Law – Lewis Bossing
- Color of Change – Sakira Cook
- Project on Government Oversight – Brandon Brockmyer
- Justice Roundtable – Danielle Neal

## Event: Canceled: To Be Rescheduled: Quarterly Civil Rights Meeting

**Start Date:** 2022-11-16 17:30:00 +0000

**End Date:** 2022-11-16 18:30:00 +0000

**Organizer:** Schedule, DAG (SMO) <DAG.Schedule@usdoj.gov>

**Location:** DAG Conference Room, 4111; WebEx Meeting

**Class:** X-PERSONAL

**Date Created:** 2022-11-16 13:26:12 +0000

**Date Modified:** 2022-11-16 13:26:12 +0000

**Priority:** 1

**DTSTAMP:** 2022-11-14 19:32:18 +0000

**Attendee:** Miller, Marshall (ODAG) <(b) (6)>; Braden, Myesha (ODAG)  
<(b) (6)>; Berger, Christine (OAG) <(b) (6)>; Gupta, Vanita (OASG)  
<(b) (6)>; Sooknanan, Sparkle (OASG) <(b) (6)>; Clarke, Kristen (CRT)  
<(b) (6)>; Cochran, Shaylyn (CRT) <(b) (6)>; (b)(6) Hina Shamsi  
<(b)(6) Hina Shamsi>; (b)(6) Chris Anders <(b)(6) Chris Anders>; (b)(6) Maya Berry <(b)(6) Maya Berry>;  
(b)(6) Marita Etcubanez <(b)(6) Marita Etcubanez>; (b)(6) Jason Kimelman-Block  
<(b)(6) Jason Kimelman-Block>; (b)(6) Kristin Dunham <(b)(6) Kristin Dunham>; (b)(6) David Stacy  
<(b)(6) David Stacy>; (b)(6) Laura Pitter <(b)(6) Laura Pitter>; (b)(6) Damon Hewitt  
<(b)(6) Damon Hewitt>; (b)(6) Arthur Ago <(b)(6) Arthur Ago>;  
(b)(6) Sumayyah Waheed <(b)(6) Sumayyah Waheed>; (b)(6) Lisa Cylar Barrett  
<(b)(6) Lisa Cylar Barrett>; (b)(6) Janai Nelson <(b)(6) Janai Nelson>; (b)(6) Faith Williams  
<(b)(6) Faith Williams>; (b)(6) Barbara Weinstein <(b)(6) Barbara Weinstein>; (b)(6) Michael Lieberman  
<(b)(6) Michael Lieberman>; (b)(6) Maya Wiley <(b)(6) Maya Wiley>; (b)(6) Nadia Aziz  
<(b)(6) Nadia Aziz>; (b)(6) Chanel Sherrod <(b)(6) Chanel Sherrod>; (b)(6) Jesselyn McCurdy  
<(b)(6) Jesselyn McCurdy>; Thomas, Tina M. (ODAG) <(b) (6)>; RFK-SurfaceHub2 (JMD) <(b)(6) per JMD>  
(b)(6) per JMD

**Alarm:** Display the following message 15m before start

### Reminder

POC: Myesha Braden

Attendees:

ODAG: DAG Monaco, Marshall Miller, Myesha Braden

OAG: Christine Berger

OASG: Vanita Gupta, Sparkle Sooknanan

CRT: Kristen Clarke, Shaylyn Cochran

ACLU: Hina Shamsi, Chris Anders

AAI: Maya Berry

AAAJ: Marita Etcubanez

ARC: Jason Kimelman-Block

Brennan Center: Kristin Dunham

HRC: David Stacy

HRW: Laura Pitter

Lawyers Committee: Damon Hewitt, Arthur Ago

Muslim Advocates: Sumayyah Waheed

LDF: Lisa Cylar Barrett, Janai Nelson

NCJW: Faith Williams

RAC: Barbara Weinstein

Southern Poverty Law Center: Michael Lieberman

Leadership Conference: Maya Wiley, Nadia Aziz, Chanel Sherrod, Jesselyn McCurdy

**Note:** This meeting is limited to the invited attendees only. You are not authorized to forward this invitation. If you believe other individuals should be included, please contact the ODAG Front Office.

**From:** "Nadia Aziz (she/her)" <(b) (6)>

**To:** "Braden, Myesha (ODAG)" <(b) (6)>

**Subject:** [EXTERNAL] RE: Verifying topics for Wednesday

**Date:** Tue, 15 Nov 2022 18:48:53 +0000

**Importance:** Normal

**Inline-Images:** image001.png

---

Thank you, Myesha.

**Nadia Aziz (she/her)**

**Senior Program Director**

The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund

*Building an America as good as its ideals.*  
[civilrights.org](https://civilrights.org/) | [leadershipconferenceedfund.org](https://leadershipconferenceedfund.org)

---

**From:** Braden, Myesha (ODAG) <(b) (6)>

**Sent:** Tuesday, November 15, 2022 1:37 PM

**To:** Nadia Aziz (she/her) <(b) (6)>

**Subject:** RE: Verifying topics for Wednesday

Hi, Nadia

The DAG wants the orgs to rest assured they will have an opportunity to speak with her before any changes to the Guidance are finalized.

Best,

Myesha

---

**From:** Nadia Aziz (she/her) <(b) (6)>

**Sent:** Monday, November 14, 2022 3:08 PM

**To:** Braden, Myesha (ODAG) <(b) (6)>

**Subject:** [EXTERNAL] RE: Verifying topics for Wednesday

Will do. Folks were really hoping to speak directly with DAG Monaco ahead of the profiling guidance deadline, so if there's any way to still make that happen I know they would appreciate it.

**Nadia Aziz (she/her)**

**Senior Program Director**

The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund

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---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Monday, November 14, 2022 2:42 PM  
**To:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: Verifying topics for Wednesday

Please let them know and offer my apologies. I'm very sorry and hope the delay results in a more useful meeting. Thank you.

---

**From:** Nadia Aziz (she/her) <(b) (6)>  
**Sent:** Monday, November 14, 2022 2:02 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Subject:** [EXTERNAL] RE: Verifying topics for Wednesday

Yes, let me touch base with Maya's assistant.

Does this mean we need to let folks know Wednesday is cancelled, or should I hold off for now?

Nadia

**Nadia Aziz (she/her)**

**Senior Program Director**

The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund

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---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Monday, November 14, 2022 1:55 PM  
**To:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: Verifying topics for Wednesday

Hi, Nadia

I'm so sorry to do this, but it looks like I got wires crossed with the Associate's office. Vanita will be out of town on Wednesday and very much wants to attend. Can you please suggest three dates after December 1?

Best,

Myesha

---

**From:** Braden, Myesha (ODAG)  
**Sent:** Monday, November 14, 2022 1:01 PM  
**To:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: Verifying topics for Wednesday

Got it. Thanks!

---

**From:** Nadia Aziz (she/her) <(b) (6)>  
**Sent:** Monday, November 14, 2022 12:59 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Subject:** [EXTERNAL] RE: Verifying topics for Wednesday

Thank you.

Not in reference to specific cases, but rather how the categories changed under the Trump Administration and RMVE includes both white supremacist violence and black separatist violence. It was mentioned in the last quarterly meeting and the DAG had mentioned it was an interesting flag because her reports have the more granular detail and not just the 5 or 6 top level categories.

**Nadia Aziz (she/her)**  
**Senior Program Director**

The Leadership Conference on Civil and Human Rights  
The Leadership Conference Education Fund

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---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Monday, November 14, 2022 12:55 PM  
**To:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: Verifying topics for Wednesday

Just to be clear, “racially motivated violent extremism” in what context? As here <https://www.judiciary.senate.gov/grassley-statement-at-hearing-on-examining-the-metastasizing-domestic-terrorism-threat-after-the-buffalo-attack> or in the context of specific cases (understanding the Department will not discuss specific cases).

---

**From:** Braden, Myesha (ODAG)  
**Sent:** Monday, November 14, 2022 12:43 PM  
**To:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** RE: Verifying topics for Wednesday

Got it. Thank you!

---

**From:** Nadia Aziz (she/her) <(b) (6)>  
**Sent:** Monday, November 14, 2022 12:42 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Subject:** [EXTERNAL] RE: Verifying topics for Wednesday

Hi Myesha,

Yes, these are the confirmed topics. Though, I don't know for sure if anyone will make a specific request for an advanced copy of the data in this meeting.

I also believe the issue of the FBI/DHS categories re "racially motivated violent extremism" may also come up again as well as the recent increase in antisemitism and threats to synagogues in New Jersey

Nadia

---

**From:** Braden, Myesha (ODAG) <(b) (6)>  
**Sent:** Monday, November 14, 2022 12:34 PM  
**To:** Nadia Aziz (she/her) <(b) (6)>  
**Subject:** Verifying topics for Wednesday

Hi, Nadia

Is there anything more from the groups about what will be on the Wednesday's agenda. For now, I have:

1. LDF – election security
2. SPLC – public education re: hate crime data release\* (Leadership Conference – advanced copy)
3. HRC – anti-LGBTQ violence
4. ACLU – racial profiling guidance

Also, if you have recent reports, letters, PRs, etc., on the org positions relevant to these concerns, please share them.

Best,

Myesha

Myesha Braden  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
United States Department of Justice  
(b) (6)

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**From:** "Braden, Myesha (ODAG)" <(b) (6)>

**To:** "Moosy, Robert (CRT)" <(b) (6)>, "Sooknanan, Sparkle (OASG)" <(b) (6)>

**Subject:** RE: LA County Jail

**Date:** Mon, 14 Nov 2022 22:58:37 -0000

**Importance:** Normal

---

This is good news. Thanks, Robert.

---

**From:** Moosy, Robert (CRT) <(b) (6)>

**Sent:** Monday, November 14, 2022 5:09 PM

**To:** Sooknanan, Sparkle (OASG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>

**Subject:** RE: LA County Jail

Readout from today's hearing:

The hearing went very well. Judge Pregerson started by apologizing to Matt (SPL attorney) for being "too harsh on him in the past." The Court seemed pleased we filed our motion though would prefer *not* to have an adversarial hearing in December. Instead, the Court would like the parties to agree to deadlines. In that respect, the Court put some pressure on the County to agree to benchmarks. Our Monitor did not opine at all.

The Court briefly asked what DOJ would do if court-ordered deadlines were missed and seemed to think there was a scenario where DOJ would "take over the Jails." Matt said that we were considering our options and the Court did not press further.

Otherwise, the fact that there may be a new Sheriff after tonight consumed much of the time. The Intervenors' request for a 30(b)(6) deposition was quashed. The County gave an hour-long speech promising "long-term solutions" but never provided actual specifics.

Finally, Matt spoke with the ACLU folks in attendance after the hearing. They are "very pleased" with our Motion and have been circulating it to community providers and other advocates. They asked us to let them know if we decide to pull our Motion because we reach an agreement on deadlines with the County.

---

**From:** Moosy, Robert (CRT)

**Sent:** Thursday, November 10, 2022 3:19 PM

**To:** Sooknanan, Sparkle (OASG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>

**Subject:** LA County Jail

FYI bc this is one of the 3 corrections facilities mentioned in the ACLU/SPLC letter. The SPL/USAO LA Jails team plans to file a motion today for a court order setting deadlines for substantial compliance. The motion argues that Defendants have breached the settlement agreement by failing to implement many of its substantive provisions within timeframes set forth in the settlement agreement. This includes provisions 63, 64, and 80, which require the Jails to provide adequate mental health housing and inpatient care for those with the most

serious mental health needs, and to provide adequate out-of-cell time and group programming in mental health areas to prevent dangerous isolation. It explains why the draft plans that Defendants have put forward for those provisions are insufficient to achieve substantial compliance. And it argues that the Court must issue an order with fixed deadlines to bring finality to the case.

The motion therefore requests that the Court issue an order compelling Defendants to: (1) achieve substantial compliance with outstanding settlement provisions according to a fixed schedule and with the entire agreement no later than June 30, 2024; and (2) demonstrate improved compliance with provisions 63, 64, and 80 each quarter year until they reach substantial compliance.

Furthermore, and in order to demonstrate improved compliance with provisions 63, 64, and 80 pursuant to (2) above, the motion requests that this Court compel Defendants to take specific actions that Defendants have mostly agreed to undertake in order to overcome barriers to compliance with those three provisions. These actions would include completing by fixed deadlines steps Defendants agreed to take in their implementation plans, such as opening a new psychiatric urgent care that can administer involuntary medications for individuals with the most serious mental illness; providing an analysis of the impact of diversion efforts on mental health housing demand in custody no later than; and implementing lasting solutions to ensure adequate out-of-cell time and close the remaining gap between mental health housing supply and demand.

(b)(5) per CRT





**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Suero, Maya A. (ODAG)" <(b) (6)>, "Gamble, Nathaniel (ODAG)" <(b) (6)>, "Brinkley, Winnie (ODAG)" <(b) (6)>

**Subject:** Canceled: To Be Rescheduled: Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 19:32:21 +0000

**Importance:** High

**Attachments:** unnamed

---

POC: Myesha Braden

Attendees:

ODAG: DAG Monaco, Marshall Miller, Myesha Braden

OAG: Christine Berger

OASG: Vanita Gupta, Sparkle Sooknanan

CRT: Kristen Clarke, Shaylyn Cochran

ACLU: Hina Shamsi, Chris Anders

AAI: Maya Berry

AAAJ: Marita Etcubanez

ARC: Jason Kimelman-Block

Brennan Center: Kristin Dunham

HRC: David Stacy

HRW: Laura Pitter

Lawyers Committee: Damon Hewitt, Arthur Ago

Muslim Advocates: Sumayyah Waheed

LDF: Lisa Cylar Barrett, Janai Nelson

NCJW: Faith Williams

RAC: Barbara Weinstien

Southern Poverty Law Center: Michael Lieberman

Leadership Conference: Maya Wiley, Nadia Aziz, Chanel Sherrod, Jesselyn McCurdy

**Note: This meeting is limited to the invited attendees only. You are not authorized to forward this invitation. If you believe other individuals should be included, please contact the ODAG Front Office.**

**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Miller, Marshall (ODAG)" <(b) (6)>, "Braden, Myesha (ODAG)" <(b) (6)>, "Berger, Christine (OAG)" <(b) (6)>, "Gupta, Vanita (OASG)" <(b) (6)>, "Sooknanan, Sparkle (OASG)" <(b) (6)>, "Clarke, Kristen (CRT)" <(b) (6)>, "Cochran, Shaylyn (CRT)" <(b) (6)>, (b)(6) Hina Shamsi <(b)(6) Hina Shamsi>, (b)(6) Chris Anders <(b)(6) Chris Anders>, (b)(6) Maya Berry <(b)(6) Maya Berry>, (b)(6) Marita Etcubanez <(b)(6) Marita Etcubanez>, (b)(6) Jason Kimelman-Block <(b)(6) Jason Kimelman-Block>, (b)(6) Kristin Dunham <(b)(6) Kristin Dunham>, (b)(6) David Stacy <(b)(6) David Stacy>, (b)(6) Laura Pitter <(b)(6) Laura Pitter>, (b)(6) Damon Hewitt <(b)(6) Damon Hewitt>, (b)(6) Arthur Ago <(b)(6) Arthur Ago>, (b)(6) Sumayyah Waheed <(b)(6) Sumayyah Waheed>, (b)(6) Lisa Cylar Barrett <(b)(6) Lisa Cylar Barrett>, (b)(6) Janai Nelson <(b)(6) Janai Nelson>, (b)(6) Faith Williams <(b)(6) Faith Williams>, (b)(6) Barbara Weinstein <(b)(6) Barbara Weinstein>, (b)(6) Michael Lieberman <(b)(6) Michael Lieberman>, (b)(6) Maya Wiley <(b)(6) Maya Wiley>, (b)(6) Nadia Aziz <(b)(6) Nadia Aziz>, (b)(6) Chanel Sherrod <(b)(6) Chanel Sherrod>, (b)(6) Jesselyn McCurdy <(b)(6) Jesselyn McCurdy>

**Cc:** "Thomas, Tina M. (ODAG)" <(b) (6)>, "RFK-SurfaceHub2 (JMD)" <(b)(6) per JMD>, (b)(6) per JMD

**Subject:** Canceled: To Be Rescheduled: Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 19:32:21 +0000

**Importance:** High

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1856

**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Suero, Maya A. (ODAG)" <(b) (6)>, "Gamble, Nathaniel (ODAG)" <(b) (6)>, "Brinkley, Winnie (ODAG)" <(b) (6)>

**Subject:** Canceled: To Be Rescheduled: Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 19:32:21 +0000

**Importance:** High

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1856



**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Brinkley, Winnie (ODAG)" <(b) (6)>

**Subject:** Canceled: To Be Rescheduled: Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 19:32:21 +0000

**Importance:** High

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1856



**From:** "Bruck, Andrew (ODAG)" <(b) (6)>

**To:** "Henthorne, Betsy (OASG)" <(b) (6)>

**Subject:** RE: Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 17:47:03 -0000

**Importance:** Normal

---

Will call in 10.

---

**From:** Henthorne, Betsy (OASG) <(b) (6)>

**Sent:** Monday, November 14, 2022 12:42 PM

**To:** Bruck, Andrew (ODAG) <(b) (6)>

**Subject:** RE: Quarterly Civil Rights Meeting

Can you give me a call about this? We can talk at 4 but sooner might be better. Thanks.

-----Original Appointment-----

**From:** Schedule, DAG (SMO) <[DAG.Schedule@usdoj.gov](mailto:DAG.Schedule@usdoj.gov)>

**Sent:** Monday, November 14, 2022 9:45 AM

**To:** Schedule, DAG (SMO); Miller, Marshall (ODAG); Braden, Myesha (ODAG); Berger, Christine (OAG); Gupta, Vanita (OASG); Sooknanan, Sparkle (OASG); Clarke, Kristen (CRT); Cochran, Shaylyn (CRT); (b)(6) Hina Shamsi; (b)(6) Chris Anders; (b)(6) Maya Berry; (b)(6) Marita Etcubanez; (b)(6) Jason Kimelman-Block; (b)(6) Kristin Dunham; (b)(6) David Stacy; (b)(6) Laura Pitter; (b)(6) Damon Hewitt; (b)(6) Arthur Ago; (b)(6) Sumayyah Waheed; (b)(6) Lisa Cylar Barrett; (b)(6) Janai Nelson; (b)(6) Faith Williams; (b)(6) Barbara Weinstein; (b)(6) Michael Lieberman; (b)(6) Maya Wiley; (b)(6) Nadia Aziz; (b)(6) Chanel Sherrod; (b)(6) Jesselyn McCurdy

**Cc:** Thomas, Tina M. (ODAG); RFK-SurfaceHub2 (JMD)

**Subject:** Quarterly Civil Rights Meeting

**When:** Wednesday, November 16, 2022 12:30 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** DAG Conference Room, 4111; WebEx Meeting

POC: Myesha Braden

Attendees:

ODAG: DAG Monaco, Marshall Miller, Myesha Braden

OAG: Christine Berger

OASG: Vanita Gupta, Sparkle Sooknanan

CRT: Kristen Clarke, Shaylyn Cochran

ACLU: Hina Shamsi, Chris Anders

AAI: Maya Berry

AAAJ: Marita Etcubanez

ARC: Jason Kimelman-Block

Brennan Center: Kristin Dunham

HRC: David Stacy

HRW: Laura Pitter

Lawyers Committee: Damon Hewitt, Arthur Ago

Muslim Advocates: Sumayyah Waheed

LDF: Lisa Cylar Barrett, Janai Nelson

NCJW: Faith Williams

RAC: Barbara Weinstien

Southern Poverty Law Center: Michael Lieberman

Leadership Conference: Maya Wiley, Nadia Aziz, Chanel Sherrod, Jesselyn McCurdy

**Note:** This meeting is limited to the invited attendees only. You are not authorized to forward this invitation. If you believe other individuals should be included, please contact the ODAG Front Office.

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**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Miller, Marshall (ODAG)" <(b) (6)>, "Braden, Myesha (ODAG)" <(b) (6)>, "Berger, Christine (OAG)" <(b) (6)>, "Gupta, Vanita (OASG)" <(b) (6)>, "Sooknanan, Sparkle (OASG)" <(b) (6)>, "Clarke, Kristen (CRT)" <(b) (6)>, "Cochran, Shaylyn (CRT)" <(b) (6)>, "(b)(6) Hina Shamsi" <(b)(6) Hina Shamsi>, "(b)(6) Chris Anders" <(b)(6) Chris Anders>, "(b)(6) Maya Berry" <(b)(6) Maya Berry>, "(b)(6) Marita Etcubanez" <(b)(6) Marita Etcubanez>, "(b)(6) Jason Kimelman-Block" <(b)(6) Jason Kimelman-Block>, "(b)(6) Kristin Dunham" <(b)(6) Kristin Dunham>, "(b)(6) David Stacy" <(b)(6) David Stacy>, "(b)(6) Laura Pitter" <(b)(6) Laura Pitter>, "(b)(6) Damon Hewitt" <(b)(6) Damon Hewitt>, "(b)(6) Arthur Ago" <(b)(6) Arthur Ago>, "(b)(6) Sumayyah Waheed" <(b)(6) Sumayyah Waheed>, "(b)(6) Lisa Cylar Barrett" <(b)(6) Lisa Cylar Barrett>, "(b)(6) Janai Nelson" <(b)(6) Janai Nelson>, "(b)(6) Faith Williams" <(b)(6) Faith Williams>, "(b)(6) Barbara Weinstein" <(b)(6) Barbara Weinstein>, "(b)(6) Michael Lieberman" <(b)(6) Michael Lieberman>, "(b)(6) Maya Wiley" <(b)(6) Maya Wiley>, "(b)(6) Nadia Aziz" <(b)(6) Nadia Aziz>, "(b)(6) Chanel Sherrod" <(b)(6) Chanel Sherrod>, "(b)(6) Jesselyn McCurdy" <(b)(6) Jesselyn McCurdy>  
**Cc:** "Thomas, Tina M. (ODAG)" <(b) (6)>, "RFK-SurfaceHub2 (JMD)" <(b)(6) per JMD>

**Subject:** Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 14:44:40 +0000

**Importance:** Normal

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1887

**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Suero, Maya A. (ODAG)" <(b) (6)>, "Gamble, Nathaniel (ODAG)" <(b) (6)>, "Brinkley, Winnie (ODAG)" <(b) (6)>

**Subject:** Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 14:44:40 +0000

**Importance:** Normal

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1886





**From:** "Schedule, DAG (SMO)" <DAG.Schedule@usdoj.gov>

**To:** "Brinkley, Winnie (ODAG)" <(b) (6)>

**Subject:** Quarterly Civil Rights Meeting

**Date:** Mon, 14 Nov 2022 14:44:40 +0000

**Importance:** Normal

**Attachments:** unnamed

---

Duplicative Information - See Document ID 23-cv-1166 - 1886

## Event: Quarterly Civil Rights Meeting

**Start Date:** 2022-11-16 17:30:00 +0000

**End Date:** 2022-11-16 18:30:00 +0000

**Organizer:** Schedule, DAG (SMO) <DAG.Schedule@usdoj.gov>

**Location:** DAG Conference Room, 4111; WebEx Meeting

**Class:** X-PERSONAL

**Date Created:** 2022-11-14 14:44:42 +0000

**Date Modified:** 2022-11-14 14:44:42 +0000

**Priority:** 5

**DTSTAMP:** 2022-11-14 14:44:36 +0000

**Attendee:** Miller, Marshall (ODAG) <(b) (6)>; Braden, Myesha (ODAG)  
<(b) (6)>; Berger, Christine (OAG) <(b) (6)>; Gupta, Vanita (OASG)  
<(b) (6)>; Sooknanan, Sparkle (OASG) <(b) (6)>; Clarke, Kristen (CRT)  
<(b) (6)>; Cochran, Shaylyn (CRT) <(b) (6)>; (b)(6) Hina Shamsi  
<(b)(6) Hina Shamsi>; (b)(6) Chris Anders <(b)(6) Chris Anders>; (b)(6) Maya Berry <(b)(6) Maya Berry>;  
(b)(6) Marita Etcubanez <(b)(6) Marita Etcubanez>; (b)(6) Jason Kimelman-Block  
<(b)(6) Jason Kimelman-Block>; (b)(6) Kristin Dunham <(b)(6) Kristin Dunham>; (b)(6) David Stacy  
<(b)(6) David Stacy>; (b)(6) Laura Pitter <(b)(6) Laura Pitter>; (b)(6) Damon Hewitt  
<(b)(6) Damon Hewitt>; (b)(6) Arthur Ago <(b)(6) Arthur Ago>;  
(b)(6) Sumayyah Waheed <(b)(6) Sumayyah Waheed>; (b)(6) Lisa Cylar Barrett  
<(b)(6) Lisa Cylar Barrett>; (b)(6) Janai Nelson <(b)(6) Janai Nelson>; (b)(6) Faith Williams  
<(b)(6) Faith Williams>; (b)(6) Barbara Weinstein <(b)(6) Barbara Weinstein>; (b)(6) Michael Lieberman  
<(b)(6) Michael Lieberman>; (b)(6) Maya Wiley <(b)(6) Maya Wiley>; (b)(6) Nadia Aziz  
<(b)(6) Nadia Aziz>; (b)(6) Chanel Sherrod <(b)(6) Chanel Sherrod>; (b)(6) Jesselyn McCurdy  
<(b)(6) Jesselyn McCurdy>; Thomas, Tina M. (ODAG) <(b) (6)>; RFK-SurfaceHub2 (JMD) <(b)(6) per JMD>  
(b)(6) per JMD >

**Alarm:** Display the following message 15m before start

Reminder

POC: Myesha Braden

Attendees:

ODAG: DAG Monaco, Marshall Miller, Myesha Braden

OAG: Christine Berger

OASG: Vanita Gupta, Sparkle Sooknanan

CRT: Kristen Clarke, Shaylyn Cochran

ACLU: Hina Shamsi, Chris Anders

AAI: Maya Berry

AAAJ: Marita Etcubanez

ARC: Jason Kimelman-Block

Brennan Center: Kristin Dunham

HRC: David Stacy

HRW: Laura Pitter

Lawyers Committee: Damon Hewitt, Arthur Ago

Muslim Advocates: Sumayyah Waheed

LDF: Lisa Cylar Barrett, Janai Nelson

NCJW: Faith Williams

RAC: Barbara Weinstein

Southern Poverty Law Center: Michael Lieberman

Leadership Conference: Maya Wiley, Nadia Aziz, Chanel Sherrod, Jesselyn McCurdy

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**From:** "Clavel, Lise L. EOP/NSC" <(b) (6)>  
**To:** Heidi Altman <(b) (6)>, "Lawrence, Betsy H. EOP/WHO" <(b) (6)>, "Kassem, Ramzi EOP/WHO" <(b) (6)>, "Ojeda, Ursela M. EOP/WHO" <(b) (6)>, "Murray, Royce" <(b) (6)>, "KRISHNASWAMI, CHARANYA" <(b) (6)>, "Guttentag, Lucas (ODAG)" <(b) (6)>, "O'Herron, Margy (ODAG)" <(b) (6)>  
**Cc:** "Zachary Mueller" <(b) (6)>, Elizabeth Yates <(b) (6)>, Erin Wilson <(b) (6)>, "(b)(6) Jose Munoz" <(b)(6) Jose Munoz>, Juliana Macedo do Nascimento <(b) (6)>, Ronald Claude <(b) (6)>, Caleb Kieffer <(b) (6)>, Lindsay Schubiner <(b) (6)>, Stephen Piggott <(b) (6)>, "Steinberg, Talya" <(b) (6)>, Marisa Limón Garza <(b) (6)>, "(b)(6) Melissa Lopez" <(b)(6) Melissa Lopez>, Michelle Nawar <(b) (6)>

**Subject:** [EXTERNAL] RE: 75+ NGO Letter re Tragic Attack on Migrants in Hudspeth County TX

**Date:** Wed, 26 Oct 2022 14:27:19 +0000

**Importance:** Normal

---

Thank you for sharing this, Heidi.

---

**From:** Heidi Altman <(b) (6)>  
**Sent:** Wednesday, October 26, 2022 10:13 AM  
**To:** Lawrence, Betsy H. EOP/WHO <(b) (6)>; Clavel, Lise L. EOP/NSC <(b) (6)>; Kassem, Ramzi EOP/WHO <(b) (6)>; Ojeda, Ursela M. EOP/WHO <(b) (6)>; Murray, Royce <(b) (6)>; KRISHNASWAMI, CHARANYA <(b) (6)>; Guttentag, Lucas (ODAG) <(b) (6)>; O'Herron, Margy (ODAG) <(b) (6)>  
**Cc:** Zachary Mueller <(b) (6)>; Elizabeth Yates <(b) (6)>; Erin Wilson <(b) (6)>; (b)(6) Jose Munoz <(b)(6) Jose Munoz>; Juliana Macedo do Nascimento <(b) (6)>; Ronald Claude <(b) (6)>; Caleb Kieffer <(b) (6)>; Lindsay Schubiner <(b) (6)>; Stephen Piggott <(b) (6)>; Steinberg, Talya <(b) (6)>; Marisa Limón Garza <(b) (6)>; (b)(6) Melissa Lopez <(b)(6) Melissa Lopez>; Michelle Nawar <(b) (6)>  
**Subject:** [EXTERNAL] 75+ NGO Letter re Tragic Attack on Migrants in Hudspeth County TX

Dear Lise, Betsy, Ursela, Ramzi, Royce, Charanya, Lucas, and Margy,

We write to deliver the attached letter to Secretary Mayorkas and Attorney General Garland, calling attention to the racially-motivated shooting of migrants in Texas that resulted in the death of a young father. The letter calls on your administration to protect the victims/witnesses of this event, and to consider the ways in which U.S. government policies and actions that dehumanize migrants give way to violence. The letter is signed by 76 immigrants' rights organizations, listed below. We request that you share the letter with Secretary Mayorkas and Attorney General Garland, and appreciate your time and consideration.

Sincerely,  
Heidi and colleagues cc'ed here

**Signatories include:**

Advocates for Basic Legal Equality  
African American Ministers In Action  
Afghan Coalition  
African Communities Together  
African Human Rights Coalition  
Al Otro Lado  
Alianza Americas  
America's Voice  
American Gateways  
American Immigration Council  
American Immigration Lawyers Association  
Americans for Immigrant Justice  
Las Americas Immigrant Advocacy Center  
Anti-Defamation League  
ASISTA Immigration Assistance  
Asylum Seeker Advocacy Project (ASAP)  
Bellevue Program for Survivors of Torture  
The Black Alliance for Just Immigration (BAJI)  
Border Network for Human Rights  
El Calvario Immigrant Advocacy Center  
Capital Area Immigrants' Rights Coalition  
Center for Constitutional Rights  
Center for Gender & Refugee Studies  
Center for Victims of Torture  
Church World Service  
Civil Rights Education and Enforcement Center  
Cleveland Jobs with Justice  
Coalición de Derechos Humanos  
Community Asylum Seekers Project  
Communities United for Status & Protection (CUSP)  
Detention Watch Network  
Diocesan Migrant & Refugee Services, Inc.  
Doctors for Camp Closure  
DRUM - Desis Rising Up & Moving  
Freedom for Immigrants (FFI)  
Haitian Bridge Alliance  
HIAS  
Hispanic Federation  
Human Rights First  
Immigration Center for Women and Children  
Immigrant Defenders Law Center  
Immigration Equality  
Innovation Law Lab  
Institute for Justice & Democracy in Haiti  
Instituto para las Mujeres en la Migración (IMUMI)  
Japanese American Citizens League  
Jewish Activists for Immigration Justice of Western MA  
Justice in Motion  
Legal Aid Justice Center  
Mariposa Legal, program of COMMON Foundation  
Minnesota Freedom Fund  
National Council of Jewish Women  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project (NIPNLG)  
National Network for Immigrant and Refugee Rights

New Mexico Immigrant Law Center  
Next 100  
Oasis Legal Services  
Quixote Center  
La Raza Community Resource Center  
Robert F. Kennedy Human Rights  
Rocky Mountain Immigrant Advocacy Network  
South Asian Americans Leading Together (SAALT)  
Southern Border Communities Coalition  
Southern Poverty Law Center  
Student Clinic for Immigrant Justice  
Tahirih Justice Center  
UndocuBlack Network  
UnidosUS  
United We Dream  
Washington Office on Latin America  
Western States Center  
Witness at the Border  
Women's Refugee Commission  
Young Center for Immigrant Children's Rights

---

Heidi Altman, Director of Policy she/her/hers

**National Immigrant Justice Center**

A Heartland Alliance Program

Washington, DC Office

Cell: (b) (6)

Email: (b) (6)

October 26, 2022

Hon. Merrick Garland  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Hon. Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, NW  
Washington, DC 20016

Dear Attorney General Garland and Secretary Mayorkas,

Last month, news outlets reported the horrific shooting of a group of migrants stopping for water in Sierra Blanca, south of El Paso, Texas. Two brothers, Michael and Mark Sheppard, were charged with shooting and killing Jesús Iván Sepúlveda and critically wounding Brenda Berenice Casias Carrillo.<sup>i</sup> Mr. Sepúlveda's tragic death left a 6-month-old baby and 3-year-old child fatherless.<sup>ii</sup>

Mr. Sepúlveda, Ms. Casias Carrillo, and other surviving witnesses were preyed upon when trying to tend to their bodies on an arduous journey to find safety in this country. They were met with bullets, insults, and hatred. Their assailants defended their behavior by claiming they were hunting wild animals — a statement that further betrays the dehumanizing rhetoric and treatment in effect.

There is already troubling evidence that at least one of the Sheppard brothers may have harbored racial animus that particularly targeted noncitizens. Michael Sheppard is the former warden at the West Texas Detention Facility, a privately owned jail that detained noncitizens and subjected them to verbal and physical abuse.<sup>iii</sup> A 2018 report<sup>iv</sup> includes disturbing accounts of anti-immigrant violence and racial slurs commonly used within that facility, including one where Michael Sheppard repeatedly kicked a handcuffed person in solitary confinement while warden of the facility.<sup>v</sup> Mark Sheppard's former employer is the Hudspeth County Sheriff's Office — the same agency currently investigating the deadly shooting — raising the risk of bias in the investigation.

Those facts alone would suffice to provoke our collective outrage and grief. This week, the Associated Press reported that most of the witnesses have been detained in Immigration and Customs Enforcement (ICE) and U.S. Marshall Service (USMS) custody, further aggravating the trauma and harm they have survived and impeding their ability to assist the ongoing investigation of these shootings.<sup>vi</sup> Thanks to their attorneys' advocacy, we understand these witnesses to now be released. However, we are dismayed by the initial response from your agencies. This response is inconsistent with ICE's own directive on the treatment of survivors<sup>vii</sup> and implicitly sanctions the racially-motivated violence that continues to plague this country and disparately harm immigrants of color.

This racist violence is not an isolated incident, but is part of a dangerous trend. Bigoted groups and individuals are increasingly using violence to accomplish their political aims, undermining the right of entire communities of color to exist and live with dignity. A mere three years after the racially motivated mass shooting in neighboring El Paso, these bigoted murders require urgent action.

We respectfully request that you take the following steps with the utmost urgency:

1. Suspend any enforcement measures, including criminal prosecution or the removal or expulsion of these individuals;
2. Refrain from prosecuting any survivors and witnesses in USMS custody and ensure that all survivors have prompt access to medical and mental health care from a safe location in the United States;
3. Launch a federal investigation into these shootings to provide independent oversight and accountability given the horrors inflicted on Mr. Sepúlveda, Ms. Casias Carrillo, and other surviving witnesses;
4. Review and investigate white supremacist rhetoric and behavior within existing detention facilities, federal immigration personnel, contractors, and collaborating law enforcement agencies;<sup>viii</sup>
5. Direct ICE, USMS, Customs and Border Protection, and collaborating law enforcement agencies to issue formal guidelines for agents prohibiting association, active participation, and support for white nationalist, unauthorized paramilitary, and other extremist groups, consistent with the First Amendment, to enhance transparency and accountability and ensure appropriate discipline. Develop and enforce clear policies to investigate and take disciplinary action in response to violations.

We further urge you to consider the ways in which U.S. government policies and actions that dehumanize Black, Brown and Indigenous migrants, such as the incarceration of immigrants for civil proceedings and summary expulsions at the border, allow white supremacy to thrive and give way to violence.

It is not too late for you to honor and protect the lives of these survivors and ensure that grieving families do not face further trauma inherent to incarceration and removal. Thank you for your attention to this urgent matter.

Sincerely,

Advocates for Basic Legal Equality  
African American Ministers In Action  
Afghan Coalition  
African Communities Together  
African Human Rights Coalition  
Al Otro Lado  
Alianza Americas  
America's Voice



American Gateways  
American Immigration Council  
American Immigration Lawyers Association  
Americans for Immigrant Justice  
Las Americas Immigrant Advocacy Center  
Anti-Defamation League  
ASISTA Immigration Assistance  
Asylum Seeker Advocacy Project (ASAP)  
Bellevue Program for Survivors of Torture  
The Black Alliance for Just Immigration (BAJI)  
Border Network for Human Rights  
El Calvario Immigrant Advocacy Center  
Capital Area Immigrants' Rights Coalition  
Center for Constitutional Rights  
Center for Gender & Refugee Studies  
Center for Victims of Torture  
Church World Service  
Civil Rights Education and Enforcement Center  
Cleveland Jobs with Justice  
Coalición de Derechos Humanos  
Community Asylum Seekers Project  
Communities United for Status & Protection (CUSP)  
Detention Watch Network  
Diocesan Migrant & Refugee Services, Inc.  
Doctors for Camp Closure  
DRUM - Desis Rising Up & Moving  
Freedom for Immigrants (FFI)  
Haitian Bridge Alliance  
HIAS  
Hispanic Federation  
Human Rights First  
Immigration Center for Women and Children  
Immigrant Defenders Law Center  
Immigration Equality  
Innovation Law Lab  
Institute for Justice & Democracy in Haiti  
Instituto para las Mujeres en la Migración (IMUMI)  
Japanese American Citizens League  
Jewish Activists for Immigration Justice of Western MA  
Justice in Motion  
Legal Aid Justice Center  
Mariposa Legal, program of COMMON Foundation  
Minnesota Freedom Fund

National Council of Jewish Women  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project (NIPNLG)  
National Network for Immigrant and Refugee Rights  
New Mexico Immigrant Law Center  
Next 100  
Oasis Legal Services  
Quixote Center  
La Raza Community Resource Center  
Robert F. Kennedy Human Rights  
Rocky Mountain Immigrant Advocacy Network  
South Asian Americans Leading Together (SAALT)  
Southern Border Communities Coalition  
Southern Poverty Law Center  
Student Clinic for Immigrant Justice  
Tahirih Justice Center  
UndocuBlack Network  
UnidosUS  
United We Dream  
Washington Office on Latin America  
Western States Center  
Witness at the Border  
Women's Refugee Commission  
Young Center for Immigrant Children's Rights

---

<sup>i</sup> Paul Weber, *Authorities: Texas man shoots 2 migrants near Mexico border*, AP News (Sept. 30, 2022), <https://apnews.com/article/mexico-shootings-texas-arrests-immigration-b663126e2546e9827f5548b9e93152a9>.

<sup>ii</sup> AP News, *Family of Mexican migrant slain in West Texas seek answers* (Oct. 5, 2022), <https://apnews.com/article/mexico-shootings-austin-texas-immigration-ab86973d076e6a9b765dee3898f2895f>.

<sup>iii</sup> Acacia Coronado, *Migrant-death suspect ran detention center accused of abuse*, AP News (Oct. 1, 2022), <https://apnews.com/article/mexico-shootings-texas-immigration-el-paso-5b6d1ec4c218fb24f38f22920753bb58>.

<sup>iv</sup> University of Texas and Texas A&M Immigrants' Rights Clinic, RAICES, *"I was treated like an animal" Abuses Against African Detainees at the West Texas Detention Facility* (March 22, 2018), <https://law.utexas.edu/wp-content/uploads/sites/11/2018/03/2018-03-IC-WTDF-Report.pdf>.

<sup>v</sup> Ryan Devereaux, *Texas Jail Warden Charged With Killing Migrant Was Previously Accused of Serious Abuses*, The Intercept (Sept. 29, 2022), <https://theintercept.com/2022/09/29/ice-mike-sheppard-abuses/>.

<sup>vi</sup> Associated Press, *Migrants who survived shooting in West Texas have been detained for weeks by immigration officials* (Oct. 19, 2022), <https://www.nbcnews.com/news/us-news/migrants-survived-shooting-west-texas-detained-weeks-immigration-offic-rcna52996>.

<sup>vii</sup> *ICE Directive 11005.3: Using a Victim-Centered Approach with Noncitizen Crime Victims* (Aug. 10, 2021), <https://www.ice.gov/doclib/news/releases/2021/11005.3.pdf>.

<sup>viii</sup> The previous DHS review of extremism in the ranks was inadequate. See Geneva Sands, *Report finds 'significant gaps' in DHS' ability to detect violent extremism in its ranks*, CNN (Mar. 11, 2022), <https://www.cnn.com/2022/03/11/politics/dhs-internal-report-domestic-violent-extremism/index.html>.

**From:** "McCabe, Shannon C. (ODAG)" <(b) (6)>

**To:** "Lai, Albert K. (OLA)" <(b) (6)>

**Cc:** "Benedict, Margot (ODAG)" <(b) (6)>, "Chandler, Adam (ODAG)" <(b) (6)>, "Robertson, Ashley E. (ODAG)" <(b) (6)>, "Lebowitz, Jason M. (ODAG)" <(b) (6)>

**Subject:** RE: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

**Date:** Wed, 12 Oct 2022 22:19:10 +0000

**Importance:** Normal

**Attachments:** 2022.XX.XX\_Draft\_Out\_-\_McClain\_et\_al\_-\_Violence\_of\_Catholics-ECATS-2022-109735mg.docx

---

Two nits in the attached. We also suggest changing the word "(b) (5)" in the second sentence. This word choice strikes us as incorrect.

---

**From:** Lai, Albert K. (OLA) <(b) (6)>

**Sent:** Wednesday, October 5, 2022 3:14 PM

**To:** Benedict, Margot (ODAG) <(b) (6)>; McCabe, Shannon C. (ODAG)

<(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>; Robertson, Ashley E. (ODAG) <(b) (6)>; Lebowitz, Jason M. (ODAG) <(b) (6)>

**Subject:** Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

Hello ODAG,

Please find attached a draft response letter to Rep. McClain and 19 other Members regarding hate crimes against the Catholic community. The incoming letter has been attached as well for reference.

The draft response letter is based heavily on a previously cleared letter sent on March 18, 2022, to Senator Kennedy regarding hate crimes against the Catholic community. I have attached that cleared letter as well for reference.

Please let me know if there are any questions or concerns with the draft response.

Best,  
Albert

---

Albert K. Lai  
Deputy Chief of Staff  
Office of Legislative Affairs  
U.S. Department of Justice  
Office: (b) (6)  
Cell: (b) (6)

**From:** "Gaston, Molly (ODAG)" <(b) (6)>

**To:** "McCabe, Shannon C. (ODAG)" <(b) (6)>, "Evers, Austin (ODAG)" <(b) (6)>, "Benedict, Margot (ODAG)" <(b) (6)>

**Cc:** "Robertson, Ashley E. (ODAG)" <(b) (6)>, "Chandler, Adam (ODAG)" <(b) (6)>, "Braden, Myesha (ODAG)" <(b) (6)>

**Subject:** RE: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

**Date:** Wed, 12 Oct 2022 22:15:07 -0000

**Importance:** Normal

**Attachments:** 2022.XX.XX\_Draft\_Out\_-\_McClain\_et\_al\_-\_Violence\_of\_Catholics-ECATS-2022-109735mg.docx

---

Thanks, two nits.

---

**From:** McCabe, Shannon C. (ODAG) <(b) (6)>

**Sent:** Wednesday, October 12, 2022 3:01 PM

**To:** Evers, Austin (ODAG) <(b) (6)>; Benedict, Margot (ODAG) <(b) (6)>; Gaston, Molly (ODAG) <(b) (6)>

**Cc:** Robertson, Ashley E. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>

**Subject:** RE: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

+ Molly

Molly, in Myesha's absence can you please let me know if you clear this draft response letter to Rep. McClain regarding hate crimes against the Catholic community?

---

**From:** McCabe, Shannon C. (ODAG)

**Sent:** Tuesday, October 11, 2022 8:47 AM

**To:** Evers, Austin (ODAG) <(b) (6)>; Benedict, Margot (ODAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>

**Cc:** Robertson, Ashley E. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>

**Subject:** RE: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

Thanks Austin. Myesha, do you have edits or do you clear?

---

**From:** Evers, Austin (ODAG) <(b) (6)>

**Sent:** Saturday, October 8, 2022 9:29 AM

**To:** Benedict, Margot (ODAG) <(b) (6)>; McCabe, Shannon C. (ODAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>

**Cc:** Robertson, Ashley E. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>

**Subject:** RE: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

This is a good letter. My one nit: the word "(b) (5)" in the second sentence strikes me as wrong.

---

**From:** Benedict, Margot (ODAG) <(b) (6)>  
**Sent:** Thursday, October 6, 2022 6:08 PM  
**To:** McCabe, Shannon C. (ODAG) <(b) (6)>; Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Evers, Austin (ODAG) <(b) (6)>; Robertson, Ashley E. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>; Evers, Austin (ODAG) <(b) (6)>  
**Subject:** RE: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

+ Austin

---

**From:** McCabe, Shannon C. (ODAG) <(b) (6)>  
**Sent:** Wednesday, October 5, 2022 3:21 PM  
**To:** Braden, Myesha (ODAG) <(b) (6)>  
**Cc:** Evers, Austin (ODAG) <(b) (6)>; Benedict, Margot (ODAG) <(b) (6)>; Robertson, Ashley E. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>  
**Subject:** FW: Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

ODAG only + Myesha.

Please let me know if you clear this draft response letter to Rep. McClain regarding hate crimes against the Catholic community.

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**From:** Lai, Albert K. (OLA) <(b) (6)>  
**Sent:** Wednesday, October 5, 2022 3:14 PM  
**To:** Benedict, Margot (ODAG) <(b) (6)>; McCabe, Shannon C. (ODAG) <(b) (6)>; Chandler, Adam (ODAG) <(b) (6)>; Robertson, Ashley E. (ODAG) <(b) (6)>; Lebowitz, Jason M. (ODAG) <(b) (6)>  
**Subject:** Letter Clearance | Rep. McClain et al. re Catholic Hate Crimes

Duplicative Information - See Document ID 23-cv-1166 - 1975



**Congress of the United States**  
House of Representatives  
Washington, DC 20515

August 30, 2022

The Honorable Merrick Garland  
United States Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Garland,

Religious freedom is under attack in the United States. Since May of 2020, the United States Conference of Catholic Bishops has counted at least one hundred sixty hate crimes against the Catholic Church across thirty-seven states. As a result, millions of Christians are under assault for merely exercising their constitutional right to freely practice their religion.

Our nation was founded on the principle of religious freedom, but this basic tenet of our system is being debased as Catholic parishes are vandalized across the country. Just this year, the altar at St. Augustine Catholic Church in Brooklyn, New York was destroyed. Vandals stole the church's historic tabernacle that held the Eucharist, the body of Christ in the Catholic faith, before proceeding to wantonly decapitate the statues of angels and desecrate the Eucharist on the altar. Other incidents of anti-Catholic violence include arson, destruction of Church property, and the defacing of gravestones with swastikas and anti-Catholic slurs. As the elected U.S. Representative of many Christians, we are forced to wonder if your Department of Justice will ever address the over one hundred crimes against Christian holy sites in America?

Under your leadership, the Department of Justice (DOJ) persecuted Americans for speaking out at school board meetings and harassed peaceful protesters by investigating them for domestic terrorism. At the same time, the DOJ ignored blatant acts of violence committed by groups such as Antifa, who targeted and destroyed the property of small businesses and government facilities in Portland, Seattle and beyond. Americans are watching in horror as your DOJ fails to respond to the violence threatening religious freedom across the country and wondering why certain criminals seem to always avoid your interest.

The principle of religious freedom is woven into the fabric of what makes America great. No American should live in fear of practicing their religion and no religion should be subject to attack in this land of the free. Religious freedom is not only a Constitutional right but a human

right, too. We are calling on you and your department to uphold your oaths to the Constitution and bring justice to the anti-Catholic criminals who are running rampant across America.

We and our constituents are demanding answers to the following questions by September 20<sup>th</sup>, 2022:

- Will the DOJ act against anti-Catholic crimes and defend the constitutional rights of Catholic Americans?
- What, specifically, are your plans to defend Christians from targeted crime?

Thank you for your attention to this matter. We look forward to receiving a response from you.

Sincerely,




Lisa C. McClain  
Member of Congress



Andrew R. Garbarino  
Member of Congress



Louie Gohmert  
Member of Congress



Ashley Hinson  
Member of Congress



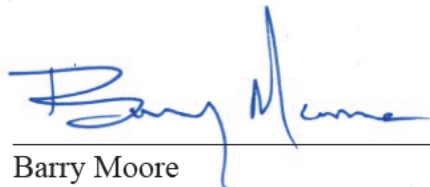
Nicole Malliotakis  
Member of Congress



Andy Harris, M.D.  
Member of Congress



Bob Good  
Member of Congress



Barry Moore  
Member of Congress

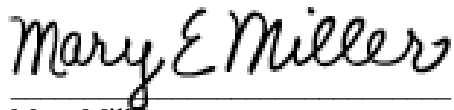


Mariannette Miller Meeks, M.D.  
Member of Congress



Jim Banks  
Member of Congress

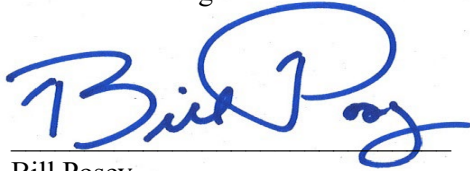




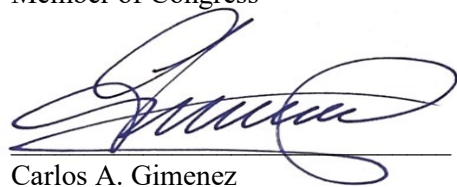
Mary Miller  
Member of Congress



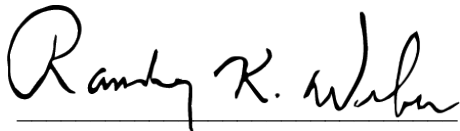
Paul Gosar D.D.S.  
Member of Congress



Bill Posey  
Member of Congress



Carlos A. Gimenez  
Member of Congress



Randy K. Weber  
Member of Congress



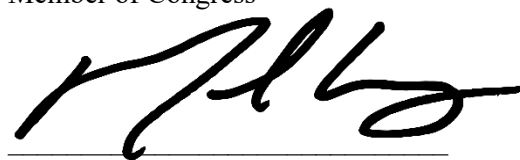
Michael Guest  
Member of Congress



Lauren Boebert  
Member of Congress



Ralph Norman  
Member of Congress



Mike Carey  
Member of Congress



Pete Stauber  
Member of Congress





**U.S. Department of Justice**

Office of Legislative Affairs

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*Office of the Assistant Attorney General*

*Washington, D.C. 20530*

The Honorable John Kennedy  
United States Senate  
Washington, DC 20510

Dear Senator Kennedy:

Thank you for your letter dated March 2, 2022, regarding violence aimed at Catholics and their institutions and property. In your letter, you requested an update on the efforts of the Department of Justice (Department) to address anti-Catholic incidents and to take appropriate action. Over the past year, the Justice Department has prioritized and strengthened its commitment to preventing and addressing unlawful hate crimes that target faith-based communities, churches and other houses of worship. Since March 2021, Attorney General Garland has issued three separate directives to the Department, including most recently in December 2021 when the Attorney General ordered a review to ensure that the Justice Department has prioritized and strengthened its commitment to addressing unlawful hate crimes that target faith-based communities, churches and other houses of worship.

In the lead up to the December 2021 directive, Attorney General Garland issued a memorandum on March 30, 2021, directing a 30-day expedited review to “determine how the Department could deploy all the tools at its disposal” to counter the recent rise in hate crimes and hate incidents.<sup>1</sup> The memorandum reaffirmed that the Justice Department “will persist in our efforts to investigate and appropriately prosecute those who attack members of our communities [and] set fire to places of worship.”

Upon conclusion of that review, on May 27, 2021, the Attorney General issued a follow-on memorandum, which announced a series of actions the Justice Department immediately began taking to address hate crimes, including religiously motivated hate crimes.<sup>2</sup> The Attorney General made clear that where evidence reveals a violation of the federal criminal statutes, we are committed to taking appropriate action because everyone in America “should be able to live without fear of being attacked or harassed because of ... how they worship.” In addition, the Attorney General directed the Chief of the Criminal Section of the Civil Rights Division to expedite review of potential violations of federal hate crime statutes, including the Church Arson Prevention Act of 1996, 18 U.S.C. § 247. Section 247 prohibits intentionally defacing,

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<sup>1</sup> Memorandum for Dep’t of Justice Employees, Hate-based Violence and Incidents, dated March 30, 2021, *available at* <https://www.justice.gov/ag/page/file/1381396/download>

<sup>2</sup> Memorandum for Dep’t of Justice Employees, Improving the Department’s Efforts to Combat Hate Crimes and Hate Incidents, dated May 27, 2021, *available at* <https://www.justice.gov/ag/page/file/1399221/download>

damaging, or destroying religious property, or attempting to do so, because of the property's religious nature. The statute also prohibits anyone from intentionally obstructing or attempting to obstruct, by force or threat of force, a person in the enjoyment of their religious beliefs, or attempts to do so. The Attorney General appointed Deputy Associate Attorney General Rachel Rossi to serve as the Department's dedicated Anti-Hate Coordinator, responsible for ensuring collaboration across the Department's efforts to combat hate, leading the creation and coordination of the Department's anti-hate crime and incident resources, and serving as the central hub for Department attorneys, law enforcement partners, community organizations, and other stakeholders on anti-hate work. And on October 1, 2021, the Federal Bureau of Investigation (FBI) elevated hate crimes violations to its highest-level national threat priority, which made pursuing these cases a priority for all 56 of the FBI's field offices nationwide while also increasing the available resources for these efforts.

Over the past year, the Justice Department has worked aggressively to implement the Attorney General's directives, including by stepping up federal law enforcement efforts; enhancing our support for and cooperation with state and local law enforcement partners; and expanding our training, outreach, facilitation, mediation, and consultation services to help protect houses of worship and faith communities.

With respect to federal criminal enforcement efforts, the Department has pursued and prosecuted a number of religiously motivated hate crimes over the past year. For example, in March 2021, the Department secured the indictment of a man who set fire to a Catholic church in Ocala, Florida.<sup>3</sup> Twelve days later, on March 26, 2021, the Department secured the conviction of a woman who threatened to bomb a Catholic preparatory school here in Washington, D.C.<sup>4</sup> Over the past year, the Department also secured the conviction of a man who opened fire on worshippers in a synagogue and set fire to a mosque in California because he wanted to kill Muslims and Jews, resulting in a life sentence.<sup>5</sup> And just last month, the Department secured the indictment of a man for setting a fire that destroyed a church in Massachusetts and also obtained a sentence of seven years for a man who carried out a series of arsons at churches in Tennessee.<sup>6</sup>

Alongside federal law enforcement efforts, the Department has also enhanced our support for and cooperation with state and local law enforcement partners. With respect to grant funding support, the Department's Office of Justice Programs has several grant programs that can be used to prevent and address crimes targeting houses of worship and faith-based communities. On June 29, 2021, the Department's Bureau of Justice Assistance issued guidance clarifying that

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<sup>3</sup> Press Release, United States Attorney's Office for the Middle District of Florida, Florida Man Charged with Federal Hate Crime for Setting Fire to Church (Mar. 18, 2021), available at <https://www.justice.gov/usao-mdfl/pr/florida-man-charged-federal-hate-crime-setting-fire-church>

<sup>4</sup> Press Release, United States Department of Justice, California Woman Sentenced to 15 Months for Threatening to Bomb Catholic Prep School (Mar. 26, 2021), available at <https://www.justice.gov/opa/pr/california-woman-sentenced-15-months-threatening-bomb-catholic-prep-school>

<sup>5</sup> Press Release, United States Department of Justice, California Man Sentenced to Life Followed by 30 Years in Prison for Federal Hate Crimes Related to 2019 Poway Synagogue Shooting and Attempted Mosque Arson (Dec. 28, 2021), available at <https://www.justice.gov/opa/pr/california-man-sentenced-life-followed-30-years-prison-federal-hate-crimes-related-2019-poway>

<sup>6</sup> Press Release, United States Department of Justice, Maine Man Indicted for Hate Crime Offenses Relating to Arson of Massachusetts Predominately Black Church (Feb. 10, 2022), available at <https://www.justice.gov/opa/pr/maine-man-indicted-hate-crime-offenses-relating-arson-massachusetts-predominately-black>; Press Release, United States Attorney's Office for the Middle District of Tennessee, Nashville Man Sentenced to Federal Prison for Series of Church Arsons (Feb. 16, 2022), available at <https://www.justice.gov/usao-mdtn/pr/nashville-man-sentenced-federal-prison-series-church-arsons>

funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program – the primary source of federal criminal justice funding to states and local governments – can be used by state and local governments for crime prevention efforts to bolster the security of churches and other places of worship. In January 2022, Associate Attorney General Vanita Gupta issued a memorandum further highlighting the Department’s guidance that JAG funds may be used to prevent and respond to hate crimes and bias-motivated attacks and to bolster security at places of worship that may be at risk for violence and other attacks. The memorandum emphasized that JAG funds can be used to respond to urgent public safety threats like attacks against places of worship and encouraged state and local governments to consider “prioritizing JAG funds for this purpose, and to contact us if you have any questions.”<sup>7</sup>

In addition to providing grant funding, the Department is committed to providing training and education to help protect houses of worship and faith communities. As part of that effort, the FBI has brought together federal, state, and local law enforcement partners for law enforcement trainings across the country – from Philadelphia to Atlanta to New Orleans. These trainings are designed to enable the Department’s partners to better understand state hate crimes laws; encourage reporting; strengthen relationships between law enforcement and local organizations; and build trust between law enforcement and the communities they serve.


The Department also conducts outreach to educate the public about the resources available to prevent and combat hate crimes, including crimes targeting houses of worship. The FBI has conducted trainings that specifically address safety issues at houses of worship. For example, since 2019, the FBI has hosted symposia with faith-based community leaders focused on strengthening relationships between law enforcement and communities of faith. The Community Relations Service (CRS) also regularly coordinates with church leaders in its work providing facilitation, mediation, and consultation services, and responds to requests from religious leaders to facilitate forums on keeping places of worship safe. CRS’s Protecting Places of Worship forum is a half-day session that provides faith-based leaders and congregations with information about religious hate crimes, state and federal hate crimes laws, law enforcement threat assessments, and ways to protect places of worship from potential hate crimes and other threats of violence. CRS held three forums in 2021, including one forum held after a shooting at a church in Texas.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

PETER  
HYUN

Peter S. Hyun  
Acting Assistant Attorney General

 Digitally signed by  
PETER HYUN  
Date: 2022.03.18  
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<sup>7</sup> Memorandum of the Associate Attorney General to State Administering Agency Directors, dated January 26, 2022, *available at* <https://www.justice.gov/opa/page/file/1465931/download>